

तमसो मा ज्योतिर्गमय

SANTINIKETAN  
VISWA BHARATI  
LIBRARY

346.74

U. C. A

Vol. 9













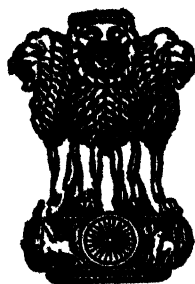


**M. of L. 51. IX (2)**  
**5000**

GOVERNMENT OF INDIA  
MINISTRY OF LAW

**THE  
UNREPEALED CENTRAL ACTS  
WITH  
CHRONOLOGICAL TABLES AND INDEX.**

**Volume IX**  
**From 1931 to 1938, both inclusive.**  
*(Second Edition)*



**सत्यमेव जयते**

PUBLISHED BY THE MANAGER OF PUBLICATIONS, DELHI  
PRINTED BY THE ALLIANCE PRESS, 6, WATERLOO STREET, CALCUTTA-1.  
1951

**Price Rs. 5/10/- or 8 Sh. 9 d.**

# LIST OF AGENTS IN INDIA FROM WHOM GOVERNMENT OF INDIA PUBLICATIONS ARE AVAILABLE.

## AGRA—

English Book Depot, Taj Road.  
National Book House, Jeomandi  
Wadhwa & Co., Raja Mandi.

## AHMEDABAD—

Chandra Kant Chiman Lal Vora, Gandhi Road  
Indradhanu Book House Ltd., Mission Road,  
Bhadra.  
New Order Book Co., Ellis Bridge.

## AJMER—

Banthyia & Co., Ltd., Station Road.

## AKOLA—

Bakshi, Mr. M. G.

## ALLAHABAD—

Central Book Depot, 44, Johnston Ganj.  
Kitabistan, 17-A, City Road.  
Law Book Co., Post Box No. 4, Albert Road.  
Ram Narain Lal, 1, Bank Road.  
Supdt., Ptg. & Stationery, U. P.  
University Book Agency (of Lahore), Post Box  
No. 63.  
Vidyarthi Book Depot, University Road.  
Wheeler & Co., M/S. A. H.

## ALWAR—

Jama General Stores, Bazaza Bazar.

## AMBALA CANTT.—

English Book Depot.

## AMRITSAR—

People's Book Shop, Court Road.  
Sikh Publishing House Ltd., Court Road

## BANARAS—

Banaras Book Corporation, University Road, P.O.  
Lanka.  
Students Friends, University Gate.

## BANGALORE—

Book Emporium, M/S. S. S., 118, G.H.  
Extension Basavangudi, P.O.  
Vichara Sahitya Ltd., Balepet

## BAREILLY—

Agarwal Bros., Bata Bazar  
Sahitya Niketan, Pulkazi

## BARODA—

Good Companions

## BIKANER—

Goyal & Co

## BOMBAY—

Charles Lambert & Co., P.O. Box 4087.  
Co-Operators' Book Depot, 9, Bakehouse Lane,  
Fort.  
Current Book House, Hornby Road.  
Dutt & Co., P.O. Box No. 6014, Parel.  
International Book House Ltd., Ash Lane,  
Mahatma Gandhi Road.  
Lakham Book Depot, Bombay 4.  
National Information & Publications Ltd., Na-  
tional House.  
New Book Co., Kitab Mahal, 188-90, Hornby Road  
Popular Book Depot, Grant Road.

Sarkari Prakashan Ltd., 24-B Harnam Str. Fort.  
Supdt., Government Printing & Stationery,  
Queens Road.

Taraporevala Sons & Co., M/S. D. B.  
Thacker & Co., Ltd.  
Tripathi & Co., M/S., N. M., Princess Street.  
Kalvadebi Road.  
Wheeler & Co., M/S. A. H.

## CALCUTTA—

Chukerverty, Chatterjee & Co., Ltd., 15 College  
Square.  
Chatterjee & Co., 3, Bacha Ram Chatterjee Lane.  
Hindu Library, 69-A, Bala Ram De Street.  
Lahuri & Co., Ltd., M/S. S.K.  
M.C. Sarker & Sons Ltd., 14, Bankim Chatterjee  
Street.  
R. Cambray & Co., Ltd., Kant House, P83, Mis-  
sion Road Extension.  
Roy Choudhury & Co., M/S N. M. 72, Harrison  
Road.  
Sarker & Sons Ltd. M/S S. C., 1/1/1C, College-  
Square.  
Thacker, Spink & Co., (1933) Ltd.

## CHAMBA—

Chamba Stationery Mart.

## CHANDAUJI

Mr. Madan Mohan.

## CUTTACK—

Press Officer, Orissa Secretariat

## DEHRA DUN—

Jugal Kishore & Co.

## DELHI—

Atma Ram & Sons, Publishers, etc., Kashmere  
Gate.  
Bahri Brothers, 188, Lajpat Rai Market.  
Federal Law Depot, Kashmere Gate.  
General Book Depot, 538/39, Egerton Road.  
Imperial Publishing Co., 3 Faiz Bazar, Darya  
Ganj.  
Indian Army Book Depot, 3, Darya Ganj.  
Jaina & Bros., M/S. J. M. Mori Gate  
M. Gulab Singh & Sons,  
Metropolitan Book Co., Delhi Gate.  
N.C. Kansil & Co., Model Basti, Lane No. 3.  
New Stationery House, Subzimandi  
Youngman & Co., (Regd.), Egerton Road

## FERROZEPUR—

English Book Depot.

## GORAKHPUR—

Halchal Sahitya Mandir.

## GWALIOR—

Jain & Bros., M/S. M.B., Sarafa Road.  
Mr. P. T. Sathe, Law Books Dealer.

## HYDERABAD (DECCAN)—

Hyderabad Book Depot

## INDORE—

Students and Studies, Sanyogitaganj.

## JAIPUR CITY—

Garg Book Co., Tripolia Bazar  
Vani Mandir, Sawai Mansingh Highway.

**JAMMU (Tawi)—**

Krishna General Stores, Raghunath Bazar.

**JHANSI—**

Bhatia Book Depot, Sadar Bazar.  
English Book Depot.

**JODHPUR—**

Kitab Ghar, Sojati Gate.  
Mr. Dwarkadas Rathii.

**JULLUNDUR CITY—**

Excelsior Book Depot, Bazar Baharwala.

**KANPUR—**

Advani & Co., The Mall.  
Sahitya Niketan.  
Universal Book Stall, The Mall.

**KOLHAPUR—**

Maharashtra Granth Bhandar.

**LUCKNOW—**

J. Ray & Sons (India) Ltd., Hazratganj.  
Law Book Agency, 29-A, Kachery Road.  
New Oxford Book Co., Jehangirabad Palace.  
Universal Publisher, Ltd., Plaza Building, Hazrat Ganj.  
Upper India Publishing House, Ltd., Literature Place, Aminuddaula Park.

**LUDHIANA—**

Lyall Book Depot.  
Mr. Dhanam Prakash, B.Sc., Banjiman Road.

**MADRAS—**

Devine Trading Co., 22, Namasivaya Mudaliar Street, Triplicane.  
Higginbothams.  
K. Krishnamurthy, Mount Road.  
Presidency Book Supplies, 8-C, Pycrofts Road.  
Opp. Victoria Hostel, Triplicane.  
Supdt. Government Press, Mount Road  
Varadachary & Co., M/S. P.

**MANGALORE--**

U. R. Shenoy & Sons, Car Street.

**MEERUT CITY—**

Prakash Educations Stores, Near Tehsil.  
University Book Depot, Near Tehsil.

**MYSORE—**

J. Nanumal and Sons, Lansdowne Buildings.

**NAGPUR—**

Supdt. Government Printing, Madhya Pradesh.

**NEW DELHI—**

Amrit Book Co., Connaught Circus.  
Bhavani & Sons, Connaught Place.  
Bodh Raj Marwah, Shop No. 65, Pussa Road Market, Karol Bagh.  
Clifton & Co., Original Road, Karolbagh.  
Empire Book Depot, 27B, Aliganj, Lodi Road.  
English Book Store, G-Block, Connaught Circus.  
Faqir Chand Marwah & Sons, No. 1-A, Regal Building, Connaught Circus.

Harikishan Das Bedi, R. S. 22, Annexe Feroze Shah Road.

J. Ray & Sons (India) Ltd., 2 Regal Building.  
Jain Book Agency, Connaught Place.

Jayna Book Depot, Chapparwala Kuan, Karol Bagh.

Navyug Trader, Original Road, Karolbagh.

Oxford Book & Stationery Coy., Scindia House.

Rama Krishna & Sons (of Lahore), 13/13, Connaught Place

Saraswati Book Depot, 15 Lady Hardinge Road.  
Sikh Publishing House Ltd., 7C, Connaught Place.

**PATIALA--**

Jainco, Booksellers etc., Bazar Shaha Nashin.

**PATNA—**

Sohan Singh & Sons, Pirmohani, P.O. Kadm Kuan.  
Supdt. Government Printing, Bihar P.O. Gulzar Bagh.

**PATNA CITY—**

Lakshmi Trading Co., Padri-ki-Haveli.

**POONA—**

Deccan Book Stall, Fergusson College Road.  
Express Book Service, East Street.  
International Book Service, Deccan Gymkhana.

**PUDUKKOTTAI—**

P. N. Swaminathan Sivam & Co., Perumal Vilas Bazar Street.

**RAJKOT--**

Mohan Lal Dosabhai Shah.

**RANCHI—**

Ideal Book Store, Near Parishan Theatre, Main Road.

**ROORKEE--**

Cambridge Book Depot.

**SHILLONG—**

Supdt. Assam Secretariat Press.

**SIMLA—**

J. Ray & Sons (India) Ltd.  
Azad Kitab Mahal Stall No. 13.  
Minerva Book Shop, The Mall.  
Sunder Das & Sons, 141, Lower Bazar.

**SIROHI—**

National Trading Co.

**SURAT--**

Shree Gajan Pustakalay, Tower Road.

**TRICHNOLY FORT—**

Krishana Swami & Co. M/S. S., Teppakulam

**TRIVANDRUM—**

International Book House, Balia Chalai.

**UDAIPUR—**

Mewar Book Depot.

**UJJAIN—**

Manakchand Book Depot, Patri Bazar.

**VELLORE—**

Vankatasubban, Mr. S. Law Booksellers.





## PREFACE.

This Volume has been prepared on the same lines as the previous edition published by the Reforms Office in 1938. The Acts included in this Volume have been printed as modified upto the 1st July, 1948.

K. V. K. SUNDARAM, I. C. S.

*Secretary, Ministry of Law.*

*Government of India.*

*New Delhi,  
The 2nd January, 1951,*



## LIST OF ABBREVIATIONS USED.

A.O. 1937 . . . . .	for Government of India (Adaptation of Indian Laws) Order, 1937, as modified by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937, and the Government of India (Adaptation of Indian Laws) (Amendment) Order, 1940.
A.O. 1947 . . . . .	" India (Adaptation of Existing Indian Laws) Order, 1947.
A.O. 1948 . . . . .	" Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.
B.&O. . . . .	" Bihar and Orissa.
Ben. . . . .	" Bengal.
Bom. . . . .	" Bombay.
Ch. . . . .	" Chapter.
Cl . . . . .	" Clause.
Coll. Stat. . . . .	" Collection of Statutes relating to India.
C.P. . . . .	" Central Provinces.
Gen. R.&O. . . . .	" General Statutory Rules and Orders.
G.G. in C. . . . .	" Governor General in Council.
G. of I . . . . .	" Government of India.
Govt. . . . .	" Government.
Ins. . . . .	" Inserted.
L. G. . . . .	" Local Government.
Mad. . . . .	" Madras.
Pt. . . . .	" Part.
Pun. . . . .	" Punjab.
Reg. . . . .	" Regulation.
Rep. . . . .	" Repealed.
S. . . . .	" Section.
Sch. . . . .	" Schedule.
Subs. . . . .	" Substituted.
U.P. . . . .	" United Provinces.

---



**CHRONOLOGICAL TABLE OF THE UNREPEALED CENTRAL ACTS,  
1931-1938.**

1 Year.	2 No.	3 Short title.	4 Page.
1931		The Indian Finance Act, 1931 <sup>1</sup> .	Not reprinted
	XVI	The Provisional Collection of Taxes Act, 1931.	1
	XX	The Sheriff of Calcutta (Power of Custody) Act, 1931.	2
	XXIII	The Indian Press (Emergency Powers) Act, 1931.	3
1932	VIII	The Bengal Criminal Law Amendment (Supplementary) Act, 1932.	17
	IX	The Indian Partnership Act, 1932.	18
	XI	The Public Suits Validation Act, 1932.	41
	XII	The Foreign Relations Act, 1932.	42
	XIII	The Sugar Industry (Protection) Act, 1932.	43
	XIV	The Indian Air Force Act, 1932.	45
	XX	The Port Haj Committees Act, 1932.	83
	XXII	The Tea Districts Emigrant Labour Act, 1932.	102
	XXIII	The Criminal Law Amendment Act, 1932.	120
	XXIV	The Bengal Suppression of Terrorist Outrages (Supplementary) Act, 1932.	123
1933	11	The Children (Pledging of Labour) Act, 1933.	124
	VII	The Indian Finance Act, 1933.	125
	XI	The Provincial Criminal Law Supplementing Act, 1933.	128
	XVII	The Indian Wireless Telegraphy Act, 1933.	130
	XXIII	The Murshidabad Estate Administration Act, 1933.	132
	XXVII	The Indian Medical Council Act, 1933.	142
1934	II	The Reserve Bank of India Act, 1934.	155
	VII	The Khaddar (Name Protection) Act, 1934.	192
	IX	The Indian Finance Act, 1934.	139
	XI	The Indian States (Protection) Act, 1934.	196
	XV	The Sugar-Cane Act, 1934.	199
	XIX	The Indian Dock Labourers Act, 1934.	201
	XX	The Indian Carriage by Air Act, 1934.	206
	XXII	The Indian Aircraft Act, 1934.	217

<sup>1</sup> Governor General's Act. No number was given.

**CHRONOLOGICAL TABLE OF THE UNREPEALED CENTRAL ACTS.  
1931-1938.**

1 Year.	2 No.	3 Short title	4 Page
1935	XXV	The Factories Act, 1934.	224
	XXVII	The Assam Criminal Law Amendment (Supplementary) Act, 1934.	255
	XXX	The Petroleum Act, 1934.	257
	XXXII	The Indian Tariff Act, 1934.	268
	XXXIV	The Indian Navy (Discipline) Act, 1934.	364
	...	The Indian Finance Act, 1935 <sup>1</sup> .	399
	XIII	The Jubbulpore and Chhattishgarh Divisions (Divorce Proceedings Validation) Act, 1935.	401
1936	...	The Indian Finance Act, 1936 <sup>1</sup> .	401
	III	The Parsi Marriage and Divorce Act, 1936.	404
	IV	The Payment of Wages Act, 1936.	420
	V	The Decrees and Orders Validating Act, 1936.	431
	XIV	The Geneva Convention Implementing Act, 1936.	432
	XVI	The Bangalore Marriages Validating Act, 1936.	433
	XVIII	The Red Cross Society (Allocation of Property) Act, 1936.	434
1937	XXIII	The Durgah Khawaja Saheb Act, 1936.	435
	I	The Agricultural Produce (Grading and Marking) Act, 1937.	441
	VI	The Arbitration (Protocol and Convention) Act, 1937.	443
	...	The Indian Finance Act, 1937 <sup>1</sup> .	451
	XVIII	The Hindu Women's Right to Property Act, 1937.	452
	XIX	The Arya Marriage Validation Act, 1937.	453
	XXIII	The Petroleum (Berar Extension) Act, 1937.	454
	XXIV	The Rules and Regulations Continuance Act, 1937.	455
	XXV	The Federal Court Act, 1937.	455
	XXVI	The Muslim Personal Law (Shariat) Application Act, 1937.	456
1938	IV	The Insurance Act, 1938.	457

<sup>1</sup> Governor General's Act. No number was given

**CHRONOLOGICAL TABLE OF THE UNREPEALED CENTRAL ACTS.  
1931-1938.**

I	2.	3	4
Year	No.	Short title	Page
	V	The Manoeuvres, Field Firing and Artillery Practice Act, 1938.	581
	....	The Indian Finance Act, 1938 <sup>1</sup> .	586
	VIII	The Indian Tea Control Act, 1938.	587
	X	The Cutchi Memons Act, 1938.	609
	XX	The Criminal Law Amendment Act, 1938.	610
	XXIV	The Employers' Liability Act, 1938.	611
	XXVI	The Employment of Children Act, 1938.	612

<sup>1</sup> Governor General's Act. No number was given.





1931.

*Finance.*

1931 : Act XVI.] *Provisional Collection of Taxes.*

## THE INDIAN FINANCE ACT 1931,

[30th March, 1931.]

[Not printed.]<sup>2</sup>

## THE PROVISIONAL COLLECTION OF TAXES ACT, 1931.

Act No. XVI of 1931<sup>3</sup>

[28th September, 1931.]

An Act to amend the law providing for the immediate effect for a limited period of provisions in Bills relating to the imposition or increase of duties of customs or excise.

**W**HEREAS it is expedient to amend the law providing for the immediate effect for a limited period of provisions in Bills relating to the imposition or increase of duties of customs or excise: It is hereby enacted as follows:—

1. This Act may be called the Provisional Collection of Taxes Act, 1931. Short title

2. In this Act, a "declared provision" means a provision in a Bill in respect of which a declaration has been made under section 3. Definition.

3. Where a Bill to be introduced in the <sup>4</sup>Central Legislature<sup>1</sup> on behalf of Government provides for the imposition or increase of a duty of customs or excise, the <sup>5</sup>Central Government<sup>1</sup> may cause to be inserted in the Bill a declaration that it is expedient in the public interest that any provision of the Bill relating to such imposition or increase shall have immediate effect under this Act. Power to make declarations under this Act.

<sup>1</sup> The Act was made by the Governor-General under the provisions of s. 67B of the G. of I. Act. No number was given. For Statement of Objects and Reasons, see Gazette of India, 1931, Pt. V. p. 85.

<sup>2</sup> Ss. 3 and 4 of the Act were rep. by the Indian Tariff Act, 1931 (32 of 1931), s. 13 and Sch. III; and certain words in the long title and preamble, and ss. 2, 5, 6, 8, 9, and 10 were rep. by the Repealing and Amending Act, 1937 (20 of 1937), s. 3 and Sch. II. The remaining substantive section 7, relating to income-tax and super-tax for the year beginning on the 1st April, 1931, being practically spent, the Act is not printed.

<sup>3</sup> For Statement of Objects and Reasons, see Gazette of India, 1931, Pt. V. p. 110.

This Act has been extended to Borar by the Borar Laws Act, 1941 (4 of 1941).

<sup>4</sup> Subs. by the A.O. 1937 for "Indian Legislature".

<sup>5</sup> Subs. by the A.O. 1937 for "G. G. in C."

Effect of  
declarations  
under this  
Act, and  
duration  
thereof.

4. (1) A declared provision shall have the force of law immediately on the expiry of the day on which the Bill containing it is introduced.

(2) A declared provision shall cease to have the force of law under the provisions of this Act—

(a) when it comes into operation as an enactment, with or without amendment, or

(b) when the <sup>1</sup>[Central Government], in pursuance of a motion passed by <sup>2</sup>\* \* \* the <sup>3</sup>[Central Legislature], directs, by notification in the <sup>4</sup>[Official Gazette], that it shall cease to have the force of law, or

(c) if it has not already ceased to have the force of law under clause (a) or clause (b), then on the expiry of the sixtieth day after the day on which the Bill containing it was introduced.

Certain re-  
funds to be  
made when  
declarations  
cease to  
have effect.

5. (1) Where a declared provision comes into operation as an enactment in an amended form before the expiry of the sixtieth day after the day on which the Bill containing it was introduced, refunds shall be made of all duties collected which would not have been collected if the provision adopted in the enactment had been the declared provision:

Provided that the rate at which refunds of any duty may be made under this sub-section shall not exceed the difference between the rate of such duty proposed in the declared provision and the rate of such duty in force when the Bill was introduced.

(2) Where a declared provision ceases to have the force of law under clause (b) or clause (c) of sub-section (2) of section 4, refunds shall be made of all duties collected which would not have been collected if the declaration in respect of it had not been made.

6. [Repeal.] Rep. by the Repealing Act, 1938 (1 of 1938) s. 2 and Sch

## THE SHERIFF OF CALCUTTA (POWERS OF CUSTODY) ACT 1931.

Act No. XX of 1931

[1st October, 1931].

**An Act to extend the powers of the Sheriff of Calcutta to hold persons in lawful custody.**

Whereas it is expedient to extend the powers of the Sheriff of Calcutta to hold persons in lawful custody for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title

1. This Act may be called the Sheriff of Calcutta (Powers of Custody) Act, 1931.

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>2</sup> The words "either Chamber of" rep. by the A.O. 1948.

<sup>3</sup> Subs. by the A.O. 1937 for "Indian Legislature".

<sup>4</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>5</sup> For Statement of Objects and Reasons, see Gazette of India, 1931, Pt. V. p. 104.

2. (1) Where the Sheriff of the High Court of Judicature at Fort William in Bengal in the discharge of his duties is taking any person in his lawful custody to or from the Presidency Jail, and circumstances are such that he is unable without undue inconvenience to proceed by a route lying wholly within the local limits of the ordinary original civil jurisdiction of the said High Court, it shall be lawful for the Sheriff to proceed by any convenient route lying partly outside the said local limits, and in so doing his custody of such person shall continue to be lawful.

Extension of the powers of custody of the Sheriff in certain cases,

(2) For the purposes of this section "the Sheriff of the High Court of Judicature at Fort William in Bengal" includes any officer or other person acting with the authority or under the orders of the said Sheriff.

3. This Act shall have retrospective effect as if it had commenced on the 1st day of September, 1925

Retrospective effect.

## THE INDIAN PRESS (EMERGENCY POWERS) ACT, 1931.

### CONTENTS.

#### SECTIONS.

1. Short title, extent and duration.
2. Definitions.

#### *Control of printing presses and newspapers.*

3. Deposit of security by keepers of printing-presses.
4. Power to declare security or press forfeited in certain cases.
5. Deposit of further security.
6. Power to declare further security and publications forfeited.
7. Deposit of security by publisher of newspaper.
8. Power to declare security forfeited in certain cases.
9. Deposit of further security.
10. Power to declare further security and newspapers forfeited.
11. Penalty for keeping press or publishing newspaper without making deposit.
12. Consequences of failure to deposit security as required.
13. Return of deposited security in certain cases.
14. Issue of search warrant.

#### *Unauthorised news-sheets and newspapers.*

15. Authorisation of persons to publish news-sheets.
16. Power to seize and destroy unauthorised news-sheets and newspapers.
17. Power to seize and forfeit undeclared presses producing unauthorised news-sheets and newspapers.
18. Penalty for disseminating unauthorised news-sheets and newspapers.

## SECTIONS.

*Special provisions relating to the seizure of certain documents.*

19. Power to declare certain publications forfeited and to issue search warrants for same.
20. Power to detain packages containing certain publications when imported into the Provinces.
21. Prohibition of transmission by post of certain documents.
22. Power to detain articles being transmitted by post.

*Powers of High Court.*

23. Application to High Court to set aside order of forfeiture.
24. Hearing by Special Bench.
25. Order of Special Bench setting aside forfeiture.
26. Evidence to prove nature or tendency of newspapers.
27. Procedure in High Court.

*Supplemental.*

28. Service of notices.
29. Conduct of searches.
30. Jurisdiction barred.
31. Operation of other laws not barred.
32. Declarations under Act XXV of 1867 to be made before certain Magistrates.

Act No. XXIII of 1931.<sup>1</sup>

[9th October, 1931.]

An Act to provide <sup>2</sup>[for the better control of the press].

**W**HEREAS it is expedient to provide <sup>2</sup>[for the better control of the press];

It is hereby enacted as follows:—

Short title,  
extent and  
duration.

1. (1) This Act may be called the Indian Press (Emergency Powers) Act, 1931.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1931, Pt. V, pp. 14, 101 and 133; for Report of Select Committee, see *ibid.*, p. 113.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941), and supplemented by the Indian States (Protection) Act, 1934 (11 of 1934), s. 8, and amended in West Bengal by Ben. Act 7 of 1934 and in Assam by Assam Act 3 of 1934.

<sup>2</sup> Subs. by the Criminal Law Amendment Act, 1932 (23 of 1932), s. 14, for "against the publication of matter inciting to or encouraging murder or violence."

(2) It extends<sup>1</sup> to <sup>2</sup>[all the Provinces of India], inclusive of <sup>3</sup>\* \* \* the Sonthal Parganas.

9P \* \* \* \*

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

- (1) "book" includes every volume, part or division of a volume, pamphlet and leaflet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed;
- (2) "document" includes also any painting, drawing or photograph or other visible representation;
- (3) "High Court" means the highest Civil Court of Appeal for any local area except in the case of the Province of Coorg where it means the High Court of Judicature at Madras;
- (4) "Magistrate" means a District Magistrate or Chief Presidency Magistrate;
- (5) "newspaper" means any periodical work containing public news or comments on public news;
- (6) "news-sheet" means any document other than a newspaper containing public news or comments on public news or any matter described in sub-section (1) of section 4;
- (7) "press" includes a printing-press and all machines, implements and plant and parts thereof and all materials used for multiplying documents;
- (8) "printing-press" includes all engines, machinery, types, lithographic stones, implements, utensils and other plant or materials used for the purpose of printing;
- (9) "unauthorised newspaper" means—
  - (a) any newspaper in respect of which there are not for the time being valid declarations under section 5 of the Press and Registration of Books Act, 1867, and
  - (b) any newspaper in respect of which security has been required under this Act, but has not been furnished as required;

XXV of  
1867.

<sup>1</sup> This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

<sup>2</sup> Subs. by the A.O. 1948 for "the whole of British India".

<sup>3</sup> The words "British Baluchistan and" rep. by the A.O. 1948.

<sup>4</sup> Sub section (3) rep. by the Criminal Law Amendment Act, 1935, s. 2.

*Control of printing-presses and newspapers.*

(10) "unauthorised news-sheet" means any news-sheet other than a news-sheet published by a person authorised under section 15 to publish it; and

(11) "undeclared press" means any press other than a press in respect of which there is for the time being a valid declaration under section 4 of the Press and Registration of Books Act, 1867.<sup>1</sup>

XXV of  
1867.*Control of printing-presses and newspapers.*

Deposit of  
security by  
keepers of  
printing-  
presses.

3. (1) Any person keeping a printing-press who is required to make a declaration under section 4 of the Press and Registration of Books Act, 1867, may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount, not being more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the <sup>2</sup>[Central Government] as the person making the deposit may choose:

XXV of  
1867.

Provided that if a deposit has been required under sub-section (3) from any previous keeper of the printing-press, the security which may be required under this sub-section may amount to three thousand rupees.

(2) Where security required under sub-section (1) has been deposited in respect of any printing-press, and for a period of three months from the date of the declaration mentioned in sub-section (1) no order is made by the <sup>3</sup>[Provincial Government] under section 4 in respect of such press, the security shall, on application by the keeper of the press, be refunded.

(3) Whenever it appears to the <sup>3</sup>[Provincial Government] that any printing-press kept in any place in the territories under its administration, in respect of which security under the provisions of this Act has not been required, or having been required has been refunded under sub-section (2), is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations of the nature described in section 4, sub-section (1), the <sup>3</sup>[Provincial Government] may, by notice in writing to the keeper of the press stating or describing such words, signs or visible representations, order the keeper to deposit with the Magistrate within whose jurisdiction the press is situated security to such an amount, not being less than five hundred or more than three thousand rupees as the <sup>3</sup>[Provincial Government] may think fit to require, in money or the equivalent thereof in securities of the <sup>2</sup>[Central Government] as the person making the deposit may choose.

<sup>1</sup> For ss. 2A and 2B as applied to West Bengal, see Ben. Act 7 of 1934; as applied to Assam, see Assam Act 8 of 1934.

<sup>2</sup> Subs. by the A.O. 1937 for "G. of I."

<sup>3</sup> Subs. by the A.O. 1937 for "L. G."

*(Control of printing-presses and newspapers.)*

(4) Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

4. (1) Whenever it appears to the <sup>1</sup>[Provincial Government] that any printing-press in respect of which any security has been ordered to be deposited under section 3 is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which—

Power to declare security or press forfeited in certain cases.

(a) incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognizable offence involving violence, or

(b) directly or indirectly express approval or admiration of any such offence, or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence, <sup>2</sup>for

(bb) are calculated to instigate the commission of, or the publication of which constitutes, an offence punishable under the Press (Special Powers) Act, 1947],

XXXIX of  
1947.

for which tend, directly or indirectly, —

(c) to seduce any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police officer from his allegiance or his duty, or

(d) to bring into hatred or contempt His Majesty or the Government established by law in <sup>4</sup>[the Provinces] or the administration of justice in <sup>4</sup>[the Provinces] or any class or section of His Majesty's subjects in <sup>4</sup>[the Provinces], or to excite disaffection towards His Majesty or the said Government, or

(e) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or

(f) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land-revenue, tax, rate, cess or other due or amount payable to Government or to any local authority, or

<sup>1</sup> Subs. by the A.O. 1987 for "L. G."

<sup>2</sup> Ins. temporarily by the Press (Special Powers) Act, 1947 (39 of 1947), s. 16; applicable to the Chief Commissioners' Provinces only.

<sup>3</sup> Ins. by the Criminal Law Amendment Act, 1902 (26 of 1902), s. 16.

<sup>4</sup> Subs. by the A.O. 1918 for "British India".



## (Control of printing-presses and newspapers.)

any rent of agricultural land or anything recoverable as arrears of or along with such rent, or

- (g) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or
- (h) to promote feelings of enmity or hatred between different classes of His Majesty's subjects, or
- (i) to prejudice the recruiting of persons to serve in any of His Majesty's forces, or in any police force, or to prejudice the training, discipline or administration of any such force;<sup>1</sup>

the <sup>2</sup>[Provincial Government] may, by notice in writing to the keeper of such printing-press, stating or describing the words, signs or visible representations which in its opinion are of the nature described above,

- (i) where security has been deposited, declare such security, or any portion thereof, to be forfeited to His Majesty, or
- (ii) where security has not been deposited, declare the press to be forfeited to His Majesty,

and may also declare all copies of such newspaper, book or other document wherever found in <sup>3</sup>[the Provinces] to be forfeited to His Majesty.<sup>4</sup>

*Explanation* <sup>5</sup>[1].—No expression of approval or admiration made in a historical or literary work shall be deemed to be of the nature described in this sub-section unless it has the tendency described in clause (d)

<sup>5</sup>[*Explanation* 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (d) of this sub-section.

*Explanation* 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (d) of this sub-section.

*Explanation* 4.—Words pointing out, without malicious intention and with an honest view to their removal, matters which are producing or have a tendency to produce feelings of enmity or hatred between different classes of His Majesty's subjects shall not be deemed to be words of the nature described in clause (h) of this sub-section.]

<sup>1</sup> For clauses (J) and (K) as applied to Bengal, see Ben. Act 7 of 1934.

<sup>2</sup> Subs. by the A.O. 1937 for "L. G."

<sup>3</sup> Subs. by the A.O. 1948 for "British India".

<sup>4</sup> For the proviso as applied to Bengal, see Ben. Act 7 of 1934.

<sup>5</sup> The original explanation was numbered 1 and explanations 2 to 4 were ins. by the Criminal Law Amendment Act, 1932 (23 of 1932), s. 10.

## (Control of printing-presses and newspapers.)

XXV of  
1867.

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1) declaring a security, or any portion thereof, to be forfeited, the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

XXV of  
1867.

5. (1) Where the security given in respect of any press, or any portion thereof, has been declared forfeited under section 4 or section 6, every person making a fresh declaration in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall deposit with the Magistrate before whom such declaration is made security to such an amount, not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the <sup>1</sup>[Central Government] as the person making the deposit may choose.

Deposit of  
further  
security.

(2) Where a portion only of the security given, in respect of such press has been declared forfeited under section 4 or section 6, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (1).

6. (1) If, after security has been deposited under section 5, the printing-press is again used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which, in the opinion of the <sup>2</sup>[Provincial Government], are of the nature described in section 4, sub-section (1), the <sup>2</sup>[Provincial Government] may, by notice in writing to the keeper of such printing-press, stating or describing such words, signs or visible representations, declare—

Power to  
declare  
further  
security  
and publi-  
cation for-  
feited.

- (a) the further security so deposited, or any portion thereof, and
- (b) all copies of such newspaper, book or other document wherever found in <sup>3</sup>[the Provinces].

to be forfeited to His Majesty.

XXV of  
1867.

(2) After the expiry of ten days from the issue of a notice under sub-section (1), the declaration made in respect of such press under section 4 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

XXV of  
1867.

7. (1) Any publisher of a newspaper who is required to make a declaration under section 5 of the Press and Registration of Books Act, 1867, may be required by the Magistrate before whom the declaration is made, for reasons to be recorded in writing, to deposit with the Magistrate within ten days from the day on which the declaration is made, security to such an amount, not being more than one thousand rupees, as the Magistrate may in each case think fit to require, in money or the equivalent thereof in securities of the <sup>1</sup>[Central Government] as the person making the deposit may choose:

Deposits of  
security by  
publisher of  
newspaper.

<sup>1</sup> Subs. by the A.O. 1937 for "G. of I."

<sup>2</sup> Subs. by the A.O. 1937 for "L.G."

<sup>3</sup> Subs. by the A.O. 1948 for "British India".

(Control of printing-presses and newspapers.)

Provided that if a deposit has been required under sub-section (3) from any previous publisher of the newspaper, the security which may be required under the sub-section may amount to three thousand rupees.

(2) Where security required under sub-section (1) has been deposited in respect of any newspaper, and for a period of three months from the date of the declaration mentioned in sub-section (1) no order is made by the <sup>1</sup>[Provincial Government] under section 8 in respect of such newspaper, the security shall, on application by the publisher of the newspaper, be refunded.

(3) Whenever it appears to the <sup>1</sup>[Provincial Government] that a newspaper published within its territories in respect of which security, under the provisions of this Act has not been required, or having been required has been refunded under sub-section (2), contains any words, signs or visible representations of the nature described in section 4, sub-section (1) the <sup>1</sup>[Provincial Government] may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, require the publisher to deposit with the Magistrate within whose jurisdiction the newspaper is published, security to such an amount, not being less than five hundred or more than three thousand rupees, as the <sup>1</sup>[Provincial Government] may think fit to require, in money or the equivalent thereof in securities of the <sup>2</sup>[Central Government as the person making the deposit may choose.

(4) Such notice shall appoint a date, not being sooner than the tenth day after the date of the issue of the notice, on or before which the deposit shall be made.

8. (1) If any newspaper in respect of which any security has been ordered to be deposited under section 7 contains any words, signs or visible representations which, in the opinion of the <sup>1</sup>[Provincial Government], are of the nature described in section 4, sub-section (1), the <sup>1</sup>[Provincial Government] may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations,—

(a) where the security has been deposited, declare such security, or any portion thereof, to be forfeited to His Majesty, or

(b) where the security has not been deposited, annul the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867,

and may also declare all copies of such newspaper, wherever found in <sup>3</sup>[the Provinces] to be forfeited to His Majesty.

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1) declaring a security, or any portion thereof, to be forfeited, the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled.

Power to  
declare  
security  
forfeited in  
certain  
cases.

XXV of  
1867.

XXV of  
1867.

<sup>1</sup> Subs. by the A.O. 1937 for "L.G."

<sup>2</sup> Subs. by the A.O. 1937 for "G. of I."

<sup>3</sup> Subs. by the A.O. 1948 for "British India".

*(Control of printing-presses and newspapers.)*XXV of  
1867.

9. (1) Where the security given in respect of any newspaper, or any portion thereof, is declared forfeited under section 8 or section 10, any persons making a fresh declaration under section 5 of the Press and Registration of Books Act, 1867, as publisher of such newspaper, or any other newspaper which is the same in substance as the said newspaper, shall deposit with the Magistrate before whom the declaration is made security to such an amount not being less than one thousand or more than ten thousand rupees, as the Magistrate may think fit to require, in money or the equivalent thereof in securities of the <sup>1</sup>[Central Government] as the persons making the deposit may choose.

Deposit of  
further  
security.

(2) Where a portion only of the security given in respect of such newspaper has been declared forfeited under section 8 or section 10, any unforfeited balance still in deposit shall be taken as part of the amount of security required under sub-section (1).

10. (1) If, after security has been deposited under section 9, the newspaper again contains any words, signs or visible representations which in the opinion of the <sup>2</sup>[Provincial Government] are of the nature described in section 4 sub-section (1), the <sup>2</sup>[Provincial Government] may, by notice in writing to the publisher of such newspaper, stating or describing such words, signs or visible representations, declare—

Power to  
declare  
further  
security  
and news-  
papers  
forfeited.

(a) the further security so deposited, or any portion thereof, and  
(b) all copies of such newspaper wherever found in <sup>3</sup>[the Provinces] to be forfeited to His Majesty.

XXV of  
1867.

(2) After the expiry of ten days from the date of the issue of a notice under sub-section (1) the declaration made by the publisher of such newspaper under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled and no further declaration in respect of such newspaper shall be made save with the permission of the <sup>2</sup>[Provincial Government].

XXV of  
1867

11. (1) Whoever keeps in his possession a press which is used for the printing of books or papers without making a deposit under section 3 or section 5, as required by the <sup>2</sup>[Provincial Government] or the Magistrate as the case may be, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 4 of the Press and Registration of Books Act, 1867.

Penalty for  
keeping  
press or  
publishing  
newspaper  
without  
making  
deposit.XXV of  
1867.

(2) Whoever publishes any newspaper without making a deposit under section 7 or section 9, as required by the <sup>2</sup>[Provincial Government] or the Magistrate as the case may be, or publishes such newspaper knowing that such security has not been deposited, shall on conviction by a Magistrate be liable to the penalty to which he would be liable if he had failed to make the declaration prescribed by section 5 of the Press and Registration of Books Act, 1867.

<sup>1</sup> Subs. by the A.O. 1937 for "G. of I.".

<sup>2</sup> Subs. by the A.O. 1937 for "L.G.".

<sup>3</sup> Subs. by the A.O. 1948 for "British India".

(Control of printing-presses and newspapers. Unauthorised news-sheets and newspapers.)

Consequences of failure to deposit security as required.

12. (1) Where a deposit is required from the keeper of a printing-press under section 3, such press shall not be used for the printing or publishing of any newspaper, book or other document after the expiry of the time allowed to make the deposit until the deposit has been made, and where a deposit is required from the keeper of a printing-press under section 5, such press shall not be so used until the deposit has been made.

(2) Where any printing-press is used in contravention of sub-section (1), the <sup>1</sup>[Provincial Government] may, by notice in writing to the keeper thereof, declare the press to be forfeited to His Majesty.

(3) Where a deposit is required from the publisher of a newspaper under section 7 and the deposit is not made within the time allowed, the declaration made by the publisher under section 5 of the Press and Registration of Books Act, 1867, shall be deemed to be annulled

XXV of 1867.

Return of deposited security in certain cases.

13. Where any person has deposited any security under this Act and ceases to keep the press in respect of which such security was deposited, or, being a publisher, makes a declaration under section 8 of the Press and Registration of Books Act, 1867, he may apply to the Magistrate within whose jurisdiction such press is situate for the return of the said security; and thereupon such security shall, upon proof to the satisfaction of the Magistrate and subject to the provisions hereinbefore contained, be returned to such person

XXV of 1867.

Issue of search warrant.

14 Where any printing-press is, or any copies of any newspaper, book or other document are, declared forfeited to His Majesty under section 4, section 6, section 8, section 10 or section 12, the <sup>1</sup>[Provincial Government], may direct a Magistrate to issue a warrant empowering any police-officer, not below the rank of Sub-Inspector, to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any premises—

(i) where any such property may be or may be reasonably suspected to be, or

(ii) where any copy of such newspaper, book or other document is kept for sale, distribution, publication or public exhibition or is reasonably suspected to be so kept.

*Unauthorised news-sheets and newspapers.*

Authorisation of persons to publish news sheets

15. (1) The Magistrate may, by order in writing and subject to such conditions as he may think fit to impose, authorise any person by name to publish a news-sheet, or to publish news-sheets from time to time.

(2) A copy of an order under sub-section (1) shall be furnished to the person thereby authorised.

<sup>1</sup> Subs. by the A.O. 1937 for "F.G."

*(Unauthorised news sheets and newspapers.)*

(3) The Magistrate may at any time revoke an order made by him under sub-section (1).

16 (1) Any police-officer, or any other person empowered in this behalf by the [Provincial Government], may seize any unauthorised news sheet or unauthorised newspaper, wherever found.

Power to  
seize and  
destroy  
unauthor-  
ised news-  
sheets and  
news-  
papers.

(2) Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place where any stock of unauthorised news sheets or unauthorised newspapers may be or may be reasonably suspected to be, and such police-officer may seize documents found in such place which, in his opinion, are unauthorised news-sheets or unauthorised newspapers.

(3) All documents seized under sub-section (1) shall be produced as soon as may be before a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, and all documents seized under sub-section (2) shall be produced as soon as may be before the Court of the Magistrate who issued the warrant.

(4) If, in the opinion of such Magistrate or Court, any of such documents are unauthorised news-sheets or unauthorised newspapers, the Magistrate or Court may cause them to be destroyed. If, in the opinion of such Magistrate or Court, any of such documents are not unauthorised news-sheets or unauthorised newspapers, such Magistrate or Court shall dispose of them in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, 1898.

V of 1898,

17. (1) Where a Presidency Magistrate, District Magistrate or Sub-divisional Magistrate has reason to believe that an unauthorised news-sheet or unauthorised newspaper is being produced from an undeclared press within the limits of his jurisdiction, he may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search any place wherein such undeclared press may be or may be reasonably suspected to be, and if, in the opinion of such police-officer any press found in such place is an undeclared press and is used to produce an unauthorised news sheet or unauthorised newspaper, he may seize such press and any documents found in the place which in his opinion are unauthorised news-sheets or unauthorised newspapers.

Power to  
seize and  
forfeit  
undeclared  
presses  
producing  
unauthorised  
news sheets  
and news-  
papers.

(2) The police-officer shall make a report of the search to the Court which issued the warrant and shall produce before such Court, as soon as may be, all property seized:

Provided that where any press which has been seized cannot be readily removed, the police-officer may produce before the Court only such parts thereof as he may think fit.

*(Unauthorised news-sheets and newspapers. Special provisions relating to the seizure of certain documents.)*

(3) If such Court, after such inquiry as it may deem requisite, is of opinion that a press seized under this section is an undeclared press which is used to produce an unauthorised news-sheet or unauthorised newspaper, it may, by order in writing, declare the press to be forfeited to His Majesty. If, after such inquiry, the Court is not of such opinion, it shall dispose of the press in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, 1898. V of 1898.

(4) The Court shall deal with documents produced before it under this section in the manner provided in sub-section (4) of section 16.

Penalty for disseminating unauthorised news-sheets and newspapers.

18. (1) Whoever makes <sup>1</sup>[prints or otherwise produces], sells, distributes, publishes or publicly exhibits or keeps for sale, distribution or publication, any unauthorised news-sheet or newspaper, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence punishable under sub-section (1), and any abetment of any such offence, shall be cognizable. V of 1898

*Special provisions relating to the seizure of certain documents.*

Power to declare certain publications forfeited and to issue search warrants for same.

19. Where any newspaper, book or other document wherever made appears to the <sup>2</sup>[Provincial Government] to contain any words, signs or visible representations of the nature described in section 4, sub-section (1), the <sup>2</sup>[Provincial Government] may, by notification in the <sup>3</sup>[Official Gazette], stating the grounds of its opinion, declare every copy of the issue of the newspaper, and every copy of such book or other document to be forfeited to His Majesty, and thereupon any police-officer may seize the same wherever found in <sup>4</sup>[the Provinces], and any Magistrate may by warrant authorise any police-officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

Power to detain packages containing certain publications when imported into the Provinces.

20. The Chief Customs-officer or other officer authorised by the <sup>2</sup>[Provincial Government] in this behalf may detain any package brought, whether by land, sea or air, into <sup>4</sup>[the Provinces] which he suspects to contain any newspapers, books or other documents of the nature described in section 4, sub-section (1), and shall forthwith forward copies of any newspapers, books or other documents found therein to such officer as the <sup>2</sup>[Provincial Government] may appoint in this behalf to be disposed of in such manner as the <sup>2</sup>[Provincial Government] may direct.

Prohibition of transmission by post of certain documents.

21. No unauthorised news-sheet or unauthorised newspaper shall be transmitted by post.

<sup>1</sup>Ins. by the Indian Press (Emergency Powers) Amendment Ordinance, 1942 (52 of 1942), s. 2.

<sup>2</sup>Subs. by the A.O. 1897 for "I.G."

<sup>3</sup>Subs. by the A.O. 1897 for "local official Gazette".

<sup>4</sup>Subs. by the A.O. 1948 for "British India".

*(Special provisions relating to the seizure of certain documents.—  
Powers of High Court.)*

22. Any officer in charge of a post-office or authorised by the Post-Master General in this behalf may detain any article other than a letter or parcel in course of transmission by post, which he suspects to contain—

**Power to detain articles being transmitted by post.**

(a) any newspaper, book or other document containing words, signs or visible representations of the nature described in section 4, sub-section (1), or

(b) any unauthorised news-sheet or unauthorised newspaper,

and shall deliver all such articles to such officer as the <sup>1</sup>[Provincial Government] may appoint in this behalf to be disposed of in such manner as the <sup>1</sup>[Provincial Government] may direct.

*Powers of High Court.*

23. (1) The keeper of a printing-press who has been ordered to deposit security under sub-section (3) of section 3, or the publisher of a newspaper who has been ordered to deposit security under sub-section (3) of section 7, or any person having an interest in any property in respect of which an order of forfeiture has been made under section 4, section 6, section 8, section 10 or section 19 may, within two months from the date of such order, apply to the High Court for the local area in which such order was made, to set aside such order, and the High Court shall decide if the newspaper, book or other document in respect of which the order was made did or did not contain any words, signs or visible representations of the nature described in section 4, sub-section (1).

**Application to High Court to set aside order of forfeiture.**

(2) The keeper of a printing-press in respect of which an order of forfeiture has been made under sub-section (2) of section 12 on the ground that it has been used in contravention of sub-section (1) of that section may apply to such High Court to set aside the order on the ground that the press was not so used.

24. Every such application shall be heard and determined by a Special Bench of the High Court composed of three Judges, or where the High Court consists of less than three Judges, of all the Judges.

**Hearing by Special Bench.**

25. (1) If it appears to the Special Bench on an application under sub-section (1) of section 23 that the words, signs or visible representations contained in the newspaper, book or other document in respect of which the order in question was made were not of the nature described in section 4, sub-section (1), the Special Bench shall set aside the order.

**Order of Special Bench setting aside forfeiture.**

(2) If it appears to the Special Bench on an application under sub-section (2) of section 23 that the printing press was not used in contravention of sub-section (1) of section 12, it shall set aside the order of forfeiture.

<sup>1</sup> Subs. by the A.O. 1987 for "L.G."



*Powers of High Court—Supplemental.*

(3) Where there is a different of opinion among the Judges forming the Special Bench, the decision shall be in accordance with the opinion of the majority (if any) of those Judges.

(4) Where there is no such majority which concurs in setting aside the order in question the order shall stand.

**Evidence to prove nature or tendency of newspapers.**

26. On hearing of an application under sub-section (1) of section 23 with reference to any newspaper, any copy of such newspaper published after the commencement of this Act may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations contained in such news paper, in respect of which the order was made.

**Procedure in High Court.**

27. Every High Court shall, as soon as conveniently may be, frame rules to regulate the procedure in the case of such applications, the amount of the costs thereof and the execution of orders passed thereon, and until such rules are framed the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable, to such applications.

*Supplemental.*

**Service of notices.**

28. Every notice under this Act shall be sent to a Magistrate, who shall cause it to be served in the manner provided for the service of summonses under the Code of Criminal Procedure, 1898:

V of 1898.

Provided that if service in such manner cannot by the exercise of diligence be effected, the serving officer shall, where the notice is directed to the keeper of a press, affix a copy thereof to some conspicuous part of the place where the press is situate, as described in the keeper's declaration under section 4 of the Press and Registration of Books Act, 1867, and where the notice is directed to the publisher of a newspaper, to some conspicuous part of the premises where the publication of such newspaper is conducted, as given in the publisher's declaration under section 5 of the said Act; and thereupon the notice shall be deemed to have been duly served.

XXV of 1867.

**Conduct of searches.**

29. Every warrant issued under this Act shall, so far as it relates to a search, be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898.

V of 1898.

**Jurisdiction barred.**

30. Every declaration of forfeiture purporting to be made under this Act shall, as against all persons, be conclusive evidence that the forfeiture therein referred to has taken place, and no proceeding purporting, to be taken under this Act, shall be called in question by any Court, except the High Court on application under section 23, and no civil or criminal proceeding, except as provided by this Act, shall be instituted against any person for anything done or in good faith intended to be done under this Act.

(Supplemental.)

1932: Act VIII.] *Bengal Criminal Law Amendment (Supplementary).*

31. Nothing herein contained shall be deemed to prevent any person from being, prosecuted under any other law for any act or omission which constitutes an offence against this Act.

Operation of other laws not barred.

XXV of  
1887.

32. 1 \* \* \* All declarations required to be made under section 4, section 5, section 8 and section 8A of the Press and Registration of Books Acts, 1887, shall be made, in a Presidency-town before the Chief Presidency Magistrate, and elsewhere before the District Magistrate.

Declarations under Act XXV of 1887 to be made before certain magistrates.

## THE BENGAL CRIMINAL LAW AMENDMENT (SUPPLEMENTARY) ACT, 1932.

[5th April, 1932.]

Act No. VIII of 1932.<sup>2</sup>

An Act to supplement the Bengal Criminal Law Amendment Act, 1930.

Ben. VI  
of 1930.

**W**HEREAS it is expedient to supplement the Bengal Criminal Law Amendment Act, 1930; It is hereby enacted as follows:—

1. This Act may be called the Bengal Criminal Law Amendment (Supplementary) Act, 1932. Short title.

3\*

2. The power of the <sup>4</sup>[Provincial Government] under sub-section (1) of section 2 of the Bengal Criminal Law Amendment Act, 1930 (hereinafter referred to as the local Act, to direct by order in writing that any person shall be committed to custody in jail shall be deemed to include a power to direct, by order in writing <sup>5</sup>\* \* \* that such person shall be committed to custody to any jail in <sup>6</sup>any Province; and, all or any of the purposes of the local Act, an order so made shall be deemed

Power to order custody in jail outside West Bengal.

<sup>1</sup> The words "So long as this Act remains in force," rep. by the Criminal Law Amendment Act, 1935, s. 7.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1931, Pt. V, p. 8, and for Report of Select Committee, see Gazette of India, 1932, Pt. V, p. 89.

<sup>3</sup> The words "It shall remain in force for a period not exceeding three years," rep. by the Bengal Criminal Law Amendment Supplementary (Extending) Act, 1934 (26 of 1934), s. 2.

<sup>4</sup> Subs. by the A.O. 1937 for "L.G."

<sup>5</sup> The words "made with the previous sanction of the G.G. in C." rep. by the A.O. 1937.

<sup>6</sup> Subs. by the A.O. 1948 for "British India".

to be an order made under section 2 of that Act, and, all the provisions of that Act shall apply accordingly:

Provided that:—

<sup>1</sup>[(a) no such order as aforesaid shall be made except with the previous consent of the Provincial Government of the Province in which the jail is situated; and

(b)] the powers exercisable by the <sup>2</sup>[Provincial Government] under section 11 of the local Act in respect of any person committed to custody in a jail outside <sup>3</sup>[West Bengal] and under section 13 of that Act to provide for the manner of custody of any such person, shall be exercised by the <sup>2</sup>[Provincial Government] of the Province in which the jail is situated, and rules made by such <sup>2</sup>[Provincial Government] in exercise of such powers shall be published in the <sup>4</sup>[Official Gazette].

Construc-  
tion.

3. References to the local Act in sections 14 and 15 of that Act shall be deemed also to be references to the local Act as supplemented by this Act.

Bar of cer-  
tain legal  
proceedings,

4. The powers conferred by section 491 of the Code of Criminal Procedure, 1898, shall not be exercised in respect of any person arrested, committed to or detained in custody under the local Act or the local Act as supplemented by this Act.

V of 1898

5. [Repeals.] Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.

## THE INDIAN PARTNERSHIP ACT, 1932.

### CONTENTS.

#### CHAPTER I.

##### PRELIMINARY.

##### SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Application of provisions of Act IX of 1872.

#### CHAPTER II.

##### THE NATURE OF PARTNERSHIP.

4. Definition of "partnership", "partner", "firm" and "firm name".
5. Partnership not created by status..
6. Mode of determining existence of partnership.
7. Partnership at will.
8. Particular partnership.

<sup>1</sup> Ins. by the A.O. 1937.

<sup>2</sup> Subs. by the A.O. 1937 for "L.G."

<sup>3</sup> Subs. by the A.O. 1948 for "Bengal".

<sup>4</sup> Subs. by the A.O. 1937 for "local official Gazette".

## CHAPTER III.

## RELATIONS OF PARTNERS TO ONE ANOTHER.

## SECTIONS.

9. General duties of partners
  10. Duty to indemnify for loss caused by fraud.
  11. Determination of rights and duties of partners by contract between the partners.  
Agreements in restraint of trade.
  12. The conduct of the business.
  13. Mutual rights and liabilities.
  14. The property of the firm.
  15. Application of the property of the firm.
  16. Personal profits earned by partners.
  17. Rights and duties of partners after a change in the firm, after the expiry of the term of the firm, and where additional undertakings are carried out.
- 

## CHAPTER IV.

## RELATIONS OF PARTNERS TO THIRD PARTIES.

18. Partner to be agent of the firm.
  19. Implied authority of partner as agent of the firm.
  20. Extension and restriction of partner's implied authority.
  21. Partner's authority in an emergency.
  22. Mode of doing act to bind firm.
  23. Effect of admissions by a partner.
  24. Effect of notice to acting partner.
  25. Liability of a partner for acts of the firm.
  26. Liability of the firm for wrongful acts of a partner.
  27. Liability of firm for misapplication by partners.
  28. Holding out.
  29. Rights of transferee of a partner's interest.
  30. Minors admitted to the benefits of partnership.
- 

## CHAPTER V

## INCOMING AND OUTGOING PARTNERS.

31. Introduction of a partner.
32. Retirement of a partner.
33. Expulsion of a partner.
34. Insolvency of a partner.
35. Liability of estate of deceased partner.

## SECTIONS.

- 36. Rights of outgoing partner to carry on competing business.  
Agreements in restraint of trade.
  - 37. Right of outgoing partner in certain cases to share subsequent profits.
  - 38. Revocation of continuing guarantee by change in firm.
- 

## CHAPTER VI.

## DISSOLUTION OF A FIRM.

- 39. Dissolution of a firm.
- 40. Dissolution by agreement.
- 41. Compulsory dissolution.
- 42. Dissolution on the happening of certain contingencies.
- 43. Dissolution by notice of partnership at will.
- 44. Dissolution by the Court.
- 45. Liability for acts of partners done after dissolution.
- 46. Right of partners to have business wound up after dissolution.
- 47. Continuing authority of partners for purposes of winding up.
- 48. Mode of settlement of accounts between partners.
- 49. Payment of firm debts and of separate debts.
- 50. Personal profits earned after dissolution.
- 51. Return of premium on premature dissolution.
- 52. Rights where partnership contract is rescinded for fraud or misrepresentation.
- 53. Right to restrain from use of firm name or firm property.
- 54. Agreements in restraint of trade.
- 55. Sale of goodwill after dissolution.
  - Rights of buyer and seller of goodwill.
  - Agreements in restraint of trade.

## CHAPTER VII.

## REGISTRATION OF FIRMS.

## SECTIONS.

56. Power to exempt from application of this Chapter.
  57. Appointment of Registrars.
  58. Application for registration.
  59. Registration.
  60. Recording of alterations in firm name and principal place of business.
  61. Noting of closing and opening of branches.
  62. Noting of changes in names and addresses of partners.
  63. Recording of changes in and dissolution of a firm.  
Recording of withdrawal of a minor.
  64. Rectification of mistakes.
  65. Amendment of Register by order of Court.
  66. Inspection of Register and filed documents.
  67. Grant of copies.
  68. Rules of evidence.
  69. Effect of non-registration.
  70. Penalty for furnishing false particulars.
  71. Power to make rules.
- 

## CHAPTER VIII.

## SUPPLEMENTAL.

72. Mode of giving public notice.
73. [*Repealed.*]
74. Savings.

SCHEDULE I.—Maximum Fees.

SCHEDULE II.—[*Repealed.*]

## (Chapter I.—Preliminary.)

## Act No. IX of 1932.

[8th April, 1932.]

## An Act to define and amend the law relating to partnership.

**W**HEREAS it is expedient to define and amend the law relating to partnership; It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Indian Partnership Act, 1932.  
(2) It extends to <sup>2</sup>[all the Provinces of India], including <sup>3</sup>\* \* \* the Sonthal Parganas.

(3) It shall come into force on the 1st day of October, 1932, except section 69, which shall come into force on the 1st day of October, 1933.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) an "act of a firm" means any act or omission by all the partners, or by any partner or agent of the firm which gives rise to a right enforceable by or against the firm;
- (b) "business" includes every trade, occupation and profession;
- (c) "prescribed" means prescribed by rules made under this Act;
- (d) "third party" used in relation to a firm or to a partner therein means any person who is not a partner in the firm; and
- (e) expressions used but not defined in this Act and defined in the Indian Contract Act, 1872, shall have the meanings assigned **IX of 1872** to them in that Act.

Application  
of provisions  
of Act IX of  
1872.

3. The unrepealed provisions of the Indian Contract Act, 1872, save **IX of 1872**, in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to firms.

<sup>1</sup> For Statement of Objects and Reasons and for Report of Special Committee, see Gazette of India, 1931, Pt. V, p. 31; for Report of Select Committee, see *ibid*, 1932, Pt. V, p. 1.

The Act has been applied to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Subs. by the A.O. 1948 for "the whole of British India".

<sup>3</sup> The words "British Baluchistan and" rep. by the A.O. 1948.

## (Chapter II.—The Nature of Partnership.)

## CHAPTER II.

## THE NATURE OF PARTNERSHIP.

4. "Partnership" is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all.

**Definition of "partnership", "partner", "firm" and "firm name".**

Persons who have entered into partnership with one another are called individually "partners" and collectively "a firm", and the name under which their business is carried on is called the "firm name".

5. The relation of partnership arises from contract and not from status; and, in particular, the members of a Hindu undivided family carrying on a family business as such, or a Burmese Buddhist husband and wife carrying on business as such are not partners in such business.

**Partnership not created by status.**

6. In determining whether a group of persons is or is not a firm, or whether a person is or is not a partner in a firm, regard shall be had to the real relation between the parties, as shown by all relevant facts taken together.

**Mode of determining existence of partnership.**

*Explanation 1.*—The sharing of profits or of gross returns arising from property by persons holding a joint or common interest in that property does not of itself make such persons partners.

*Explanation 2.*—The receipt by a person of a share of the profits of a business, or of a payment contingent upon the earning of profits or varying with the profits earned by a business, does not of itself make him a partner with the persons carrying on the business; and, in particular, the receipt of such share or payment—

- (a) by a lender of money to persons engaged or about to engage in any business,
- (b) by a servant or agent as remuneration,
- (c) by the widow or child of a deceased partner, as annuity, or
- (d) by a previous owner or part owner of the business, as consideration for the sale of the goodwill or share thereof,

does not of itself make the receiver a partner with the persons carrying on the business.

7. Where no provision is made by contract between the partners for the duration of their partnership, or for the determination of their partnership, the partnership is "partnership at will".

**Partnership at will.**

8. A person may become a partner with another person in particular adventures or undertakings.

**Particular partnership.**



## (Chapter III.—Relations of Partners to one another.)

## CHAPTER III.

## RELATIONS OF PARTNERS TO ONE ANOTHER.

**General duties of partners.**

9. Partners are bound to carry on the business of the firm to the greatest common advantage, to be just and faithful to each other, and to render true accounts and full information of all things affecting the firm to any partner or his legal representative.

**Duty to indemnify for loss caused by fraud.**

10. Every partner shall indemnify the firm for any loss caused to it by his fraud in the conduct of the business of the firm.

**Determination of rights and duties of partners by contract between the partners.**

11. (1) Subject to the provisions of this Act, the mutual rights and duties of the partners of a firm may be determined by contract between the partners, and such contract may be expressed or may be implied by a course of dealing

Such contract may be varied by consent of all the partners, and such consent may be expressed or may be implied by a course of dealing.

**Agreements in restraint of trade.**

(2) Notwithstanding anything contained in section 27 of the Indian Contract Act, 1872, such contracts may provide that a partner shall not IX of 1872, carry on any business other than that of the firm while he is a partner.

**The conduct of the business.**

12. Subject to contract between the partners,—

- (a) every partner has a right to take part in the conduct of the business;
- (b) every partner is bound to attend diligently to his duties in the conduct of the business;
- (c) any difference arising as to ordinary matters connected with the business may be decided by a majority of the partners, and every partner shall have the right to express his opinion before the matter is decided, but no change may be made in the nature of the business without the consent of all the partners; and
- (d) every partner has a right to have access to and to inspect and copy any of the books of the firm.

**Mutual rights and liabilities.**

13. Subject to contract between the partners—

- (a) a partner is not entitled to receive remuneration for taking part in the conduct of the business;
- (b) the partners are entitled to share equally in the profits earned, and shall contribute equally to the losses sustained by the firm;
- (c) where a partner is entitled to interest on the capital subscribed by him such interest shall be payable only out of profits;
- (d) a partner making, for the purposes of the business, any payment or advance beyond the amount of capital he has agreed to subscribe, is entitled to interest thereon at the rate of six per cent. per annum;

*(Chapter III—Relations of partners to one another)*

- (e) the firm shall indemnify a partner in respect of payments made and liabilities incurred by him—
- (i) in the ordinary and proper conduct of the business, and
- (ii) in doing such act, in an emergency, for the purpose of protecting the firm from loss, as would be done by a person of ordinary prudence, in his own case, under similar circumstances, and
- (f) a partner shall indemnify the firm for any loss caused to it by his wilful neglect in the conduct of the business of the firm

14 Subject to contract between the partners, the property of the firm includes all property and rights and interests in property originally brought into the stock of the firm, or acquired, by purchase or otherwise by or for the firm, or for the purposes and in the course of the business of the firm, and includes also the goodwill of the business **The property of the firm.**

Unless the contrary intention appears, property and rights and interests in property acquired with money belonging to the firm are deemed to have been acquired for the firm

15 Subject to contract between the partners the property of the firm shall be held and used by the partners exclusively for the purposes of the business **Application of the property of the firm**

16 Subject to contract between the partners.—

- (a) if a partner derives any profit for himself from any transaction of the firm, or from the use of the property or business connection of the firm or the firm name, he shall account for that profit and pay it to the firm,
- (b) if a partner carries on any business of the same nature as and competing with that of the firm, he shall account for and pay to the firm all profits made by him in that business

**Personal profits earned by partners**

17. Subject to contract between the partners,—

- (a) where a change occurs in the constitution of a firm, the mutual rights and duties of the partners in the reconstituted firm remain the same as they were immediately before the change, as far as may be, **Rights and duties of partners after a change in the firm,**
- (b) where a firm constituted for a fixed term continues to carry on business after the expiry of that term, the mutual rights and duties of the partners remain the same as they were before the expiry, so far as they may be consistent with the incidents of partnership at will; and **after the expiry of the term of the firm, and**
- (c) where a firm constituted to carry out one or more adventures or undertakings carries out other adventures or undertakings, the mutual rights and duties of the partners in respect of the other adventures or undertakings are the same as those in respect of the original adventures or undertakings, **where additional undertakings are carried out**

## (Chapter IV.—Relations of partners to third parties.)

## CHAPTER IV.

## RELATIONS OF PARTNERS TO THIRD PARTIES.

**Partner to be agent of the firm.** 18. Subject to the provisions of this Act, a partner is the agent of the firm for the purposes of the business of the firm.

**Implied authority of partner as agent of the firm.** 19. (1) Subject to the provisions of section 22, the act of a partner which is done to carry on, in the usual way, business of the kind carried on by the firm, binds the firm.

The authority of a partner to bind the firm conferred by this section is called his "implied authority".

(2) In the absence of any usage or custom of trade to the contrary, the implied authority of a partner does not empower him to—

- (a) submit a dispute relating to the business of the firm to arbitration,
- (b) open a banking account on behalf of the firm in his own name,
- (c) compromise or relinquish any claim or portion of a claim by the firm,
- (d) withdraw a suit or proceeding filed on behalf of the firm,
- (e) admit any liability in a suit or proceeding against the firm,
- (f) acquire immovable property on behalf of the firm,
- (g) transfer immovable property belonging to the firm, or
- (h) enter into partnership on behalf of the firm.

**Extension and restriction of partner's implied authority.** 20. The partners in a firm may, by contract between the partners, extend or restrict the implied authority of any partner.

Notwithstanding any such restriction, any act done by a partner on behalf of the firm which falls within his implied authority binds the firm, unless the person with whom he is dealing knows of the restriction or does not know or believe that partner to be a partner.

**Partner's authority in an emergency.** 21. A partner has authority, in an emergency, to do all such acts for the purpose of protecting the firm from loss as would be done by a person of ordinary prudence, in his own case, acting under similar circumstances, and such acts bind the firm.

**Mode of doing act to bind firm.** 22. In order to bind a firm, an act or instrument done or executed by a partner or other person on behalf of the firm shall be done or executed in the firm name, or in any other manner expressing or implying an intention to bind the firm.

**Effect of admissions by a partner.** 23. An admission or representation made by a partner concerning the affairs of the firm is evidence against the firm, if it is made in the ordinary course of business.

*(Chapter IV.—Relations of partners to third parties.)*

24. Notice to a partner who habitually acts in the business of the firm of any matter relating to the affairs of the firm operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner.

Effect of notice to acting partner.

25. Every partner is liable, jointly with all the other partners and also severally, for all acts of the firm done while he is a partner.

Liability of a partner for acts of the firm.

26. Where, by the wrongful act or omission of a partner acting in the ordinary course of the business of a firm, or with the authority of his partners, loss or injury is caused to any third party, or any penalty is incurred, the firm is liable therefor to the same extent as the partner.

Liability of the firm for wrongful acts of a partner.

27. Where—

(a) a partner acting within his apparent authority receives money or property from a third party and misapplies it, or

Liability of firm for misapplication by partners.

(b) a firm in the course of its business receives money or property from a third party, and the money or property is misapplied by any of the partners while it is in the custody of the firm,

the firm is liable to make good the loss.

28. (1) Any one who by words spoken or written or by conduct represents himself, or knowingly permits himself to be represented, to be a partner in a firm, is liable as a partner in that firm to any one who has on the faith of any such representation given credit to the firm, whether the person representing himself or represented to be a partner does or does not know that the representation has reached the person so giving credit.

Holding out.

(2) Where after a partner's death the business is continued in the old firm name, the continued use of that name or of the deceased partner's name as a part thereof shall not of itself make his legal representative or his estate liable for any act of the firm done after his death.

29. (1) A transfer by a partner of his interest in the firm, either absolute or by mortgage, or by the creation by him of a charge on such interest, does not entitle the transferee, during the continuance of the firm, to interfere in the conduct of the business, or to require accounts, or to inspect the books of the firm, but entitles the transferee only to receive the share of profits of the transferring partner, and the transferee shall accept the account of profits agreed to by the partners.

Rights of transferee of a partner's interest.

(2) If the firm is dissolved or if the transferring partner ceases to be a partner, the transferee is entitled as against the remaining partners to receive the share of the assets of the firm to which the transferring partner is entitled, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution.

*(Chapter IV.—Relations of partners to third parties.)*

Minors  
admitted to  
the benefits  
of partner-  
ship.

30. (1) A person who is a minor according to the law to which he is subject may not be a partner in a firm, but, with the consent of all the partners for the time being, he may be admitted to the benefits of partnership.

(2) Such minor has a right to such share of the property and of the profits of the firm as may be agreed upon, and he may have access to and inspect and copy any of the accounts of the firm.

(3) Such minor's share is liable for the acts of the firm, but the minor is not personally liable for any such act.

(4) Such minor may not sue the partners for an account or payment of his share of the property or profits of the firm, save when severing his connection with the firm, and in such case the amount of his share shall be determined by a valuation made as far as possible in accordance with the rules contained in section 48:

Provided that all the partners acting together or any partner entitled to dissolve the firm upon notice to other partners may elect in such suit to dissolve the firm, and thereupon the Court shall proceed with the suit as one for dissolution and for settling accounts between the partners, and the amount of the share of the minor shall be determined along with the shares of the partners.

(5) At any time within six months of his attaining majority, or of his obtaining knowledge that he had been admitted to the benefits of partnership, whichever date is later, such person may give public notice that he has elected to become or that he has elected not to become a partner in the firm, and such notice shall determine his position as regards the firm:

Provided that, if he fails to give such notice, he shall become a partner in the firm on the expiry of the said six months.

(6) Where any person has been admitted as a minor to the benefits of partnership in a firm, the burden of proving the fact that such person had no knowledge of such admission until a particular date after the expiry of six months of his attaining majority shall lie on the persons asserting that fact.

(7) Where such person becomes a partner,—

(a) his rights and liabilities as a minor continue up to the date on which he becomes a partner, but he also becomes personally liable to third parties for all acts of the firm done since he was admitted to the benefits of partnership, and

(b) his share in the property and profits of the firm shall be the share to which he was entitled as a minor

(Chapter IV.—Relations of partners to third parties. Chapter V.—  
Incoming and outgoing partners.)

(8) Where such person elects not to become a partner,—

- (a) his rights and liabilities shall continue to be those of a minor under this section up to the date on which he gives public notice,
- (b) his share shall not be liable for any acts of the firm done after the date of the notice, and
- (c) he shall be entitled to sue the partners for his share of the property and profits in accordance with sub-section (4).

(9) Nothing in sub-section (7) and (8) shall affect the provisions of section 28.

## CHAPTER V.

### INCOMING AND OUTGOING PARTNERS.

31. (1) Subject to contract between the partners and to the provisions of section 30, no person shall be introduced as a partner into a firm without the consent of all the existing partners.

(2) Subject to the provisions of section 30, a person who is introduced as a partner into a firm does not thereby become liable for any act of the firm done before he became a partner.

32. (1) A partner may retire—

Retirement  
of a partner.

- (a) with the consent of all the other partners,
- (b) in accordance with an express agreement by the partners, or
- (c) where the partnership is at will, by giving notice in writing to all the other partners of his intention to retire.

(2) A retiring partner may be discharged from any liability to any third party for acts of the firm done before his retirement by an agreement made by him with such third party and the partners of the reconstituted firm, and such agreement may be implied by a course of dealing between such third party and the reconstituted firm after he had knowledge of the retirement.

(3) Notwithstanding the retirement of a partner from a firm, he and the partners continue to be liable as partners to third parties for any act done by any of them which would have been an act of the firm if done before the retirement, until public notice is given of the retirement:

Provided that a retired partner is not liable to any third party who deals with the firm without knowing that he was a partner.

(4) Notices under sub-section (3) may be given by the retired partner or by any partner of the reconstituted firm.

*(Chapter V.—Incoming and outgoing partners.)*

**Expulsion of a partner.** 33. (1) A partner may not be expelled from a firm by any majority of the partners, save in the exercise in good faith of powers conferred by contract between the partners.

(2) The provisions of sub sections (2), (3) and (4) of section 32 shall apply to an expelled partner as if he were a retired partner.

**Insolvency of a partner.** 34. (1) Where a partner in a firm is adjudicated an insolvent he ceases to be a partner on the date on which the order of adjudication is made, whether or not the firm is thereby dissolved

(2) Where under a contract between the partners the firm is not dissolved by the adjudication of a partner as an insolvent, the estate of a partner so adjudicated is not liable for any act of the firm and the firm is not liable for any act of the insolvent, done after the date on which the order of adjudication is made.

**Liability of estate of deceased partner.** 35. Where under a contract between the partners the firm is not dissolved by the death of a partner, the estate of a deceased partner is not liable for any act of the firm done after his death

**Rights of outgoing partner to carry on competing business.** 36. (1) An outgoing partner may carry on a business competing with that of the firm and he may advertise such business, but, subject to contract to the contrary, he may not—

- (a) use the firm name,
- (b) represent himself as carrying on the business of the firm, or
- (c) solicit the custom of persons who were dealing with the firm before he ceased to be a partner.

**Agreements in restraint of trade.** (2) A partner may make an agreement with his partners that on ceasing to be a partner he will not carry on any business similar to that of the firm within a specified period or within specified local limits; and, notwithstanding anything contained in section 27 of the Indian Contract Act, 1872, such agreement shall be valid if the restrictions imposed are IX of 1872. reasonable.

**Right of outgoing partner in certain cases to share subsequent profits.** 37. Where any member of a firm has died or otherwise ceased to be a partner, and the surviving or continuing partners carry on the business of the firm with the property of the firm without any final settlement of accounts as between them and the outgoing partner or his estate, then, in the absence of a contract to the contrary, the outgoing partner or his estate is entitled at the option of himself or his representatives to such share of the profits made since he ceased to be a partner as may be attributable to the use of his share of the property of the firm or to interest at the rate of six per cent. per annum on the amount of his share in the property of the firm:

Provided that where by contract between the partners an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner, and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate, as the case may be,

*(Chapter V.—Incoming and outgoing partners. Chapter VI.—Dissolution of a firm.)*

is not entitled to any further or other share of profits; but if any partner assuming to act in exercise of the option does not in all material respects comply with the terms thereof, he is liable to account under the foregoing provisions of this section.

38. A continuing guarantee given to a firm, or to a third party in respect of the transactions of a firm, is, in the absence of agreement to the contrary, revoked as to future transactions from the date of any change in the constitution of the firm.

Revocation of continuing guarantee by change in firm.

## CHAPTER VI.

### DISSOLUTION OF A FIRM.

39. The dissolution of partnership between all the partners of a firm is called the "dissolution of the firm".

Dissolution of a firm.

40. A firm may be dissolved with the consent of all the partners or in accordance with a contract between the partners.

Dissolution by agreement.

41. A firm is dissolved—

Compulsory dissolution.

- (a) by the adjudication of all the partners or of all the partners but one as insolvent, or
- (b) by the happening of any event which makes it unlawful for the business of the firm to be carried on or for the partners to carry it on in partnership:

Provided that, where more than one separate adventure or undertaking is carried on by the firm, the illegality of one or more shall not of itself cause the dissolution of the firm in respect of its lawful adventures and undertakings.

42. Subject to contract between the partners a firm is dissolved—

Dissolution on the happening of certain contingencies

- (a) if constituted for a fixed term, by the expiry of that term;
- (b) if constituted to carry out one or more adventures or undertakings, by the completion thereof;
- (c) by the death of a partner; and
- (d) by the adjudication of a partner as an insolvent.

43. (1) Where the partnership is at will, the firm may be dissolved by any partner giving notice in writing to all the other partners of his intention to dissolve the firm.

Dissolution by notice of partnership at will.

(2) The firm is dissolved as from the date mentioned in the notice as the date of dissolution or, if no date is so mentioned, as from the date of the communication of the notice.



## (Chapter VI.—Dissolution of a firm.)

**Dissolution by the Court.** 44. At the suit of a partner, the Court may dissolve a firm on any of the following grounds, namely —

- (a) that a partner has become of unsound mind, in which case the suit may be brought as well by the next friend of the partner who has become of unsound mind as by any other partner,
- (b) that a partner, other than the partner suing, has become in any way permanently incapable of performing his duties as partner;
- (c) that a partner, other than the partner suing, is guilty of conduct which is likely to affect prejudicially the carrying on of the business, regard being had to the nature of the business;
- (d) that a partner, other than the partner suing, wilfully or persistently commits breach of agreements relating to the management of the affairs of the firm or the conduct of its business, or otherwise so conducts himself in matters relating to the business that it is not reasonably practicable for the other partners to carry on the business in partnership with him,
- (e) that a partner, other than the partner suing, has in any way transferred the whole of his interest in the firm to a third party, or has allowed his share to be charged under the provisions of rule 49 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908, or has allowed it to be sold in the recovery of arrears of land revenue or of any dues recoverable as arrears of land-revenue due by the partner; V of 1908.
- (f) that the business of the firm cannot be carried on save at a loss; or
- (g) on any other ground which renders it just and equitable that the firm should be dissolved

**Liability for acts of partners done after dissolution.** 45. (1) Notwithstanding the dissolution of a firm, the partners continue to be liable as such to third parties for any act done by any of them which would have been an act of the firm if done before the dissolution, until public notice is given of the dissolution.

Provided that the estate of a partner who dies, or who is adjudicated on insolvent, or of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable under this section for acts done after the date on which he ceases to be a partner.

(2) Notices under sub-section (1) may be given by any partner.

**Right of partners to have business wound up after dissolution.** 46. On the dissolution of a firm every partner or his representative is entitled, as against all the other partners or their representatives, to have the property of the firm applied in payment of the debts and liabilities of the firm, and to have the surplus distributed among the partners or their representatives according to their rights.

## (Chapter VI.—Dissolution of a firm.)

47. After the dissolution of a firm the authority of each partner to bind the firm, and the other mutual rights and obligations of the partners, continue notwithstanding the dissolution, so far as may be necessary to wind up the affairs of the firm and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise.

Continuing  
authority of  
partners for  
purposes of  
winding up.

Provided that the firm is in no case bound by the acts of a partner who has been adjudicated insolvent, but this proviso does not affect the liability of any person who has after the adjudication represented himself or knowingly permitted himself to be represented as a partner of the insolvent

48. In settling the accounts of a firm after dissolution, the following rules shall, subject to agreement by the partners, be observed.—

Mode of  
settlement of  
accounts  
between  
partners.

(a) Losses, including deficiencies of capital, shall be paid first out of profits, next out of capital, and, lastly, if necessary, by the partners individually in the proportions in which they were entitled to share profits.

(b) The assets of the firm, including any sums contributed by the partners to make up deficiencies of capital, shall be applied in the following manner and order:—

(i) in paying the debts of the firm to third parties.

(ii) in paying to each partner rateably what is due to him from the firm for advances as distinguished from capital;

(iii) in paying to each partner rateably what is due to him on amount of capital, and

(iv) the residue, if any, shall be divided among the partners in the proportions in which they were entitled to share profits.

49. Where there are joint debts due from the firm and also separate debts due from any partner, the property of the firm shall be applied in the first instance in payment of the debts of the firm, and, if there is any surplus, then the share of each partner shall be applied in payment of his separate debts or paid to him. The separate property of any partner shall be applied first in the payment of his separate debts and the surplus (if any) in the payment of the debts of the firm.

Payment of  
firm debts  
and of  
separate  
debts.

50. Subject to contract between the partners, the provisions of clause (a) of section 16 shall apply to transactions by any surviving partner or by the representatives of a deceased partner, undertaken after the firm is dissolved on account of the death of a partner and before its affairs have been completely wound up:

Personal  
profits  
earned after  
dissolution.

## (Chapter VI.—Dissolution of a firm.)

Provided that where any partner or his representative has bought the goodwill of the firm, nothing in this section shall affect his right to use the firm name.

**Return of premium on premature dissolution.**

51. Where a partner has paid a premium on entering into partnership for a fixed term, and the firm is dissolved before the expiration of that term otherwise than by the death of a partner, he shall be entitled to repayment of the premium or of such part thereof as may be reasonable, regard being had to the terms upon which he became a partner and to the length of time during which he was a partner, unless—

- (a) the dissolution is mainly due to his own misconduct, or
- (b) the dissolution is in pursuance of an agreement containing no provision for the return of the premium or any part of it.

**Rights where partnership contract is rescinded for fraud or misrepresentation.**

52. Where a contract creating partnership is rescinded on the ground of the fraud or misrepresentation of any of the parties thereto, the party entitled to rescind is, without prejudice to any other right entitled—

- (a) to a lien on, or a right of retention of, the surplus or the assets of the firm remaining after the debts of the firm have been paid, for any sum paid by him for the purchase of a share in the firm and for any capital contributed by him,
- (b) to rank as a creditor of the firm in respect of any payment made by him towards the debts of the firm, and
- (c) to be indemnified by the partner or partners guilty of the fraud or misrepresentation against all the debts of the firm

**Right to restrain from use of firm name or firm property.**

53. After a firm is dissolved, every partner or his representative may, in the absence of a contract between the partners to the contrary, restrain any other partner or his representative from carrying on a similar business in the firm name or from using any of the property of the firm for his own benefit, until the affairs of the firm have been completely wound up:

Provided that where any partner or his representative has bought the goodwill of the firm, nothing in this section shall affect his right to use the firm name.

**Agreement in restraint of trade.**

54. Partners may, upon or in anticipation of the dissolution of the firm, make an agreement that some or all of them will not carry on a business similar to that of the firm within a specified period or within specified local limits; and notwithstanding anything contained in section 27 of the Indian Contract Act, 1872, such agreement shall be valid if the restrictions imposed are reasonable.

**Sale of goodwill after dissolution.**

55. (1) In settling the accounts of a firm after dissolution, the goodwill shall, subject to contract between the partners, be included in the assets, and it may be sold either separately or along with other property of the firm.

## (Chapter VI. — Dissolution of a firm Chapter VII — Registration of firms.)

(2) Where the goodwill of a firm is sold after dissolution, a partner may carry on a business competing with that of the buyer and he may advertise such business, but, subject to agreement between him and the buyer he may not— **Rights of buyer and seller of goodwill.**

- (a) use the firm name,
- (b) represent himself as carrying on the business of the firm, or
- (c) solicit the custom of persons who were dealing with the firm before its dissolution

(3) Any partner may, upon the sale of the goodwill of a firm, make an agreement with the buyer that such partner will not carry on any business similar to that of the firm within a specified period or within specified local limits, and, notwithstanding anything contained in section 27 of the Indian Contract Act, 1872, such agreement shall be valid if the restrictions imposed are reasonable. **Agreements in restraint of trade.**

of 1872.

## CHAPTER VII

## REGISTRATION OF FIRMS.

56. The <sup>1</sup>[Provincial Government of any Province] may, by notification in the <sup>2</sup>[Official Gazette], direct that the provisions of this Chapter shall not apply to <sup>3</sup>[that Province] or to any part thereof specified in the notification. **Power to exempt from application of this Chapter.**

57. (1) The <sup>4</sup>[Provincial Government] may appoint Registrars of Firms for the purposes of this Act, and may define the areas within which they shall exercise their powers and perform their duties **Appointment of Registrars**

(2) Every Registrar shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. **LV of 1860**

58. (1) The registration of a firm may be effected at any time by sending by post or delivering to the Registrar of the area in which any place of business of the firm is situated or proposed to be situated, a statement in the prescribed form and accompanied by the prescribed fee, stating— **Application for registration.**

- (a) the firm name,
- (b) the place or principal place of business of the firm,
- (c) the names of any other places where the firm carries on business,
- (d) the date when each partner joined the firm,
- (e) the names in full and permanent addresses of the partners, and
- (f) the duration of the firm.

The statement shall be signed by all the partners, or by their agents specially authorised in this behalf.

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C".

<sup>2</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>3</sup> Subs. by the A.O. 1937 for "any Province".

<sup>4</sup> Subs. by the A.O. 1937 for "T. G."

## (Chapter VII.—Registration of firms.)

(2) Each person signing the statement shall also verify it in the manner prescribed.

(3) A firm name shall not contain any of the following words, namely:—

"Crown", "Emperor", "Empress", "Empire", "Imperial", "King", "Queen", "Royal", or words expressing or implying the sanction, approval or patronage of the Crown or <sup>1</sup>[the Central Government, or any Provincial Government <sup>2</sup>\* \* \*], except <sup>3</sup>[when the Provincial Government] signifies <sup>4</sup>[its] consent to the use of such words as part of the firm name by order in writing <sup>5</sup>\* \* \*.

**Registration.** 59. When the Registrar is satisfied that the provisions of section 58 have been duly complied with, he shall record an entry of the statement in a register called the Register of Firms, and shall file the statement.

**Recording of alterations in firm name and principal place of business.** 60. (1) When an alteration is made in the firm name or in the location of the principal place of business of a registered firm, a statement may be sent to the Registrar accompanied by the prescribed fee, specifying the alteration, and signed and verified in the manner required under section 58.

(2) When the Registrar is satisfied that the provisions of sub-section (1) have been duly complied with, he shall amend the entry relating to the firm in the Register of Firms in accordance with the statement, and shall file it along with the statement relating to the firm filed under section 59.

**Noting of closing and opening of branches.** 61. When a registered firm discontinues business at any place or begins to carry on business at any place, such place not being its principal place of business, and partner or agent of the firm may send intimation thereof to the Registrar, who shall make a note of such intimation in the entry relating to the firm in the Register of Firms, and shall file the intimation along with the statement relating to the firm filed under section 59.

**Noting of changes in name and addresses of partners.** 62. When any partner in a registered firm alters his name or permanent address an intimation of the alteration may be sent by any partner or agent of the firm to the Registrar, who shall deal with it in the manner provided in section 61.

**Recording of changes in constitution and dissolution of a firm.** 63. (1) When a change occurs in the constitution of a registered firm any incoming, continuing or outgoing partner, and when a registered firm is dissolved any person who was a partner immediately before the dissolution, or the agent of any such partner or person specially authorised in this behalf, may give notice to the Registrar of such change or dissolution, specifying the date thereof; and the Registrar shall make a record of the notice in the entry relating to the firm in the Register of Firms, and shall

<sup>1</sup> Subs. by the A.O. 1937 for "the G. of I. or a L.G.".

<sup>2</sup> The words "or the Crown Representative" rep. by the A.O. 1948.

<sup>3</sup> Subs. by the A.O. 1937 for "when the G. G. in C."

<sup>4</sup> Subs. by the A.O. 1937 for "his".

<sup>5</sup> The words "under the hand of one of the Secretaries of the G. of I." rep. by the A.O. 1937.

*(Chapter VII.—Registration of firms.)*

file the notice along with the statement relating to the firm filed under section 59.

(2) When a minor who has been admitted to the benefits of partnership in a firm attains majority and elects to become or not to become a partner, and the firm is then a registered firm, he, or his agent specially authorised in this behalf, may give notice to the Registrar that he has or has not become a partner, and the Registrar shall deal with the notice in the manner provided in sub-section (1). **Recording of withdrawal of a minor.**

64. (1) The Registrar shall have power at all times to rectify any mistake in order to bring the entry in the Register of Firms relating to any firm into conformity with the documents relating to that firm filed under this Chapter. **Rectification of mistakes.**

(2) On application made by all the parties who have signed any document relating to a firm filed under this Chapter, the Registrar may rectify any mistake in such document or in the record or note thereof made in the Register of Firms.

65. A Court deciding any matter relating to a registered firm may direct that the Registrar shall make any amendment in the entry in the Register of Firms relating to such firm which is consequential upon its decision; and the Registrar shall amend the entry accordingly. **Amendment of Register by order of Court.**

66. (1) The Register of Firms shall be open to inspection by any person on payment of such fee as may be prescribed. **Inspection of Register and filed documents.**

(2) All statements, notices and intimations filed under this Chapter shall be open to inspection, subject to such conditions and on payment of such fee as may be prescribed.

67. The Registrar shall on application furnish to any person, on payment of such fee as may be prescribed, a copy, certified under his hand, of any entry or portion thereof in the Register of Firms. **Grant of copies.**

68. (1) Any statement, intimation or notice recorded or noted in the Register of Firms shall, as against any person by whom or on whose behalf such statement, intimation or notice was signed, be conclusive proof of any fact therein stated. **Rules of evidence.**

(2) A certified copy of an entry relating to a firm in the Register of Firms may be produced in proof of the fact of the registration of such firm, and of the contents of any statement, intimation or notice recorded or noted therein.

69. (1) No suit to enforce a right arising from a contract or conferred by this Act shall be instituted in any Court by or on behalf of any person suing as a partner in a firm against the firm or any person alleged to be or to have been a partner in the firm unless the firm is registered and the person suing is or has been shown in the Register of Firms as a partner in the firm. **Effect of non-registration.**

## (Chapter VII.—Registration of firms.)

(2) No suit to enforce a right arising from a contract shall be instituted in any Court by or on behalf of a firm against any third party unless the firm is registered and the persons suing are or have been shown in the Register of Firms as partners in the firm.

(3) The provisions of sub-sections (1) and (2) shall apply also to a claim of set-off or other proceeding to enforce a right arising from a contract, but shall not affect—

- (a) the enforcement of any right to sue for the dissolution of a firm or for accounts of a dissolved firm, or any right or power to realise the property of a dissolved firm, or
  - (b) the powers of an official assignee, receiver or Court under the Presidency-towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, to realise the property of an insolvent partner.
- (4) This section shall not apply—
- (a) to firms or to partners in firms which have no place of business in <sup>1</sup>[the Provinces], or whose places of business in <sup>2</sup>[the Provinces] are situated in areas to which, by notification under <sup>3</sup>[section 56], this Chapter does not apply, or
  - (b) to any suit or claim of set-off not exceeding one hundred rupees in value which, in the Presidency-towns, is not of a kind specified in section 19 of the Presidency Small Cause Courts Act, 1882, or, outside the Presidency towns, is not of a kind specified in the Second Schedule to the Provincial Small Cause Courts Act, 1887, or to any proceeding in execution or other proceeding incidental to or arising from any such suit or claim.

**Penalty for  
furnishing  
false  
particulars.**

70. Any person who signs any statement, amending statement, notice or intimation under this Chapter containing any particular which he knows to be false or does not believe to be true, or containing particulars which he knows to be incomplete or does not believe to be complete, shall be punishable with imprisonment which may extend to three months, or with fine, or with both.

**Power to  
make rules.**

71. (1) The <sup>3</sup>[Provincial Government] may make rules prescribing the fees which shall accompany documents sent to the Registrar of Firms, or which shall be payable for the inspection of documents in the custody of the Registrar of Firms, or for copies from the Register of Firms:

Provided that such fees shall not exceed the maximum fees specified in Schedule I.

<sup>1</sup> Subs. by the A.O. 1948 for "British India".

<sup>2</sup> Subs. by the Repealing and Amending Act, 1961 (24 of 1964), s. 2 and Sch. I, for "section 56".

<sup>3</sup> Subs. by the A.O. 1987 for "G. G. in C."

(Chapter VII.—Registration of firms. • Chapter VIII.—Supplemental.)

(2) The <sup>1</sup>[Provincial Government] may <sup>2</sup>[also] make rules—

- (a) prescribing the form of statement submitted under section 58, and of the verification thereof;
- (b) requiring statements, intimations and notices under sections 60, 61, 62 and 63 to be in prescribed form, and prescribing the form thereof;
- (c) prescribing the form of the Register of Firms, and the mode in which entries relating to firms are to be made therein, and the mode in which such entries are to be amended or notes made therein;
- (d) regulating the procedure of the Registrar when disputes arise;
- (e) regulating the filing of documents received by the Registrar;
- (f) prescribing conditions for the inspection of original documents;
- (g) regulating the grant of copies,
- (h) regulating the elimination of registers and documents,
- (i) providing for the maintenance and form of an index to the Register of Firms, and
- (j) generally, to carry out the purposes of this Chapter

(3) All rules made under this section shall be subject to the condition of previous publication.

## CHAPTER VIII

### SUPPLEMENTAL

72. A public notice under this Act is given—

**Mode of  
giving  
public notice.**

- (a) where it relates to the retirement or expulsion of a partner from a registered firm, or to the dissolution of a registered firm, or to the election to become or not to become a partner in a registered firm by a person attaining majority who was admitted as a minor to the benefits of partnership, by notice to the Registrar of Firms under section 63, and by publication in the <sup>3</sup>[Official Gazette] and in at least one vernacular newspaper circulating in the district where the firm to which it relates has its place or principal place of business, and
- (b) in any other case, by publication in the <sup>3</sup>[Official Gazette] and in at least one vernacular newspaper circulating in the district where the firm to which it relates has its place or principal place of business.

<sup>1</sup> Subs. by the A.O. 1937 for "L. G."

<sup>2</sup> Ins. by the A.O. 1937.

<sup>3</sup> Subs. by the A.O. 1937 for "local official Gazette".



*(Chapter VIII.—Supplemental. Schedule I.—Maximum fees. Schedule II.—Enactments Repealed.)*

73. [Repeals.] Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.

**Savings.** 74. Nothing in this Act or any repeal effected thereby shall affect or be deemed to affect—

- (a) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or
- (b) any legal proceeding or remedy in respect of any such right, title, interest, obligation or liability, or anything done or suffered before the commencement of this Act, or
- (c) anything done or suffered before the commencement of this Act, or
- (d) any enactment relating to partnership not expressly repealed by this Act, or
- (e) any rule of insolvency relating to partnership, or
- (f) any rule of law not inconsistent with this Act

## SCHEDULE I.

### MAXIMUM FEES

[See sub-section (1) of section 71.]

Document or act in respect of which the fee is payable.	Maximum fee
Statement under section 58 . . . . .	Three rupees
Statement under section 60 . . . . .	One rupee
Intimation under section 61 . . . . .	One rupee.
Intimation under section 62 . . . . .	One rupee.
Notice under section 53 . . . . .	One rupee.
Application under section 64 . . . . .	One rupee.
Inspection of the Register of Firms under sub section (1) of section 66 . . . . .	Eight annas for inspecting one volume of the Register.
Inspection of documents relating to a firm under sub section (2) of section 66 . . . . .	Eight annas for the inspection of all documents relating to one firm.
Copies from the Register of Firms . . . . .	Four annas for each hundred words or part thereof.

**SCHEDULE II.**—[Enactments Repealed.] Rep by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.

## THE PUBLIC SUITS VALIDATION ACT, 1932.

Act No. XI of 1932.<sup>1</sup>

[8th April, 1932.]

An Act to validate certain suits relating to public matters.

**W**HEREAS it is expedient to validate certain suits relating to public matters which may be or have been held to be invalid by reason of the previous sanction of the Local Government in respect thereof not having been obtained as required by section 93 of the Code of Civil Procedure, 1908; It is hereby enacted as follows:—

1. (1) This Act may be called the Public Suits Validation Act 1932. Short title and extent.

(2) It extends to all parts of <sup>2</sup>{the Provinces} to which sections 91, 92 and 93 of the Code of Civil Procedure, 1908, extend.

2. Where a suit relating to any of the public matters specified in sections 91 and 92 of the Code of Civil Procedure, 1908, is pending at the commencement of this Act, the institution of such suit shall not be deemed to be invalid on the ground that the previous sanction of the <sup>3</sup>{Provincial Government} in respect of such suit has not been obtained as required by section 93 of that Code. Validation of certain pending public suits.

*Explanation.*—For the purposes of this section a suit pending at the commencement of this Act includes a suit in respect of which an appeal lies or is pending at the commencement of this Act.

3. Where any suit relating to any such public matter has, after the 30th day of November, 1931, and before the commencement of this Act, been dismissed by a Court of first instance solely on the ground that the sanction of the <sup>3</sup>{Provincial Government} in respect of such suit has not been obtained as required by section 93 of the Code of Civil Procedure, 1908, the Court shall, on application made within six months from the commencement of this Act, make an order setting aside its decree and shall proceed with the suit. Restoration of certain dismissed public suits.

4. Where, in any appeal arising from a suit relating to any such public matter, a decree has been passed after the 30th day of November, 1931, and before the commencement of this Act, dismissing the appeal or dismissing the suit from which the appeal arose, solely on the ground that the previous sanction of the <sup>3</sup>{Provincial Government} in respect of the suit had not been obtained as required by section 93 of the Code of Civil Procedure, 1908, the Appellate Court shall, on application made within six months from the commencement of this Act, make an order setting aside its decree and shall proceed with the appeal. Retrial or certain appeals relating to public suits.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1932, Pt. V, p. 135. The Act has been applied to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Subs. by the A. O. 1948 for "British India."

<sup>3</sup> Subs. by the A. O. 1937 for "L. G."

## THE FOREIGN RELATIONS ACT, 1932.

Act No. XII of 1932.<sup>1</sup>

[8th April, 1932.]

An Act to provide against the publication of statements likely to prejudice the maintenance of friendly relations between <sup>2</sup>[the Government of India] and the Governments of certain foreign States.

**W**HEREAS it is expedient to provide against the publication of statements likely to prejudice the maintenance of friendly relations between <sup>2</sup>[the Government of India] and the Governments of certain foreign States: It is hereby enacted as follows:-

Short title  
and extent.

1. (1) This Act may be called the Foreign Relations Act, 1932.

(2) It extends to <sup>3</sup>[all the Provinces of India], including <sup>4</sup>\* \* the Sonthal Parganas.

Power of  
Central  
Govern-  
ment to  
prosecute in  
certain  
cases of  
defamation

2. Where an offence falling under Chapter XXI of the Indian Penal Code is committed against a Ruler of a State outside but adjoining India, or against the consort or son or principal Minister of such Ruler, the <sup>5</sup>[Central Government] may make, or authorise any person to make, a complaint in writing of such offence, and, notwithstanding anything contained in section 198 of the Code of Criminal Procedure, V of 1898, 1898, any Court competent in other respects to take cognizance of such offence may take cognizance thereof on such complaint.

XLV of  
1860.

5\*

\*

\*

\*

Power to  
forfeit cer-  
tain publi-  
cations or to  
detain them  
in the course  
of transmi-  
ssion  
through  
post.

3. The provisions of sections 99A to 99G of the Code of Criminal Procedure, 1898, and of sections 27B to 27D of the Indian Post Office Act, 1898, shall apply in the case of any book, newspaper or other document containing matter which is defamatory of a Ruler of a State outside but adjoining India or of the consort or son or principal Minister of such Ruler and tends to prejudice the maintenance of friendly relations between <sup>2</sup>[the Government of India] and the Government of such State, in like manner as they apply in the case of a book, newspaper or document containing seditious matter within the meaning of those sections: V of 1898.  
V of 1898.

Provided that for the purposes of this section the said provisions shall be construed as if for the words "<sup>7</sup>[Provincial Government]" wherever they occur, the words "<sup>5</sup>[Central Government]" were substituted.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1931, Pt. V; p. 106; for Report of Select Committee, see *ibid.*, 1932, Pt. V, p. 99.

The Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Subs. by the A. O. 1948 for "His Majesty's Government".

<sup>3</sup> Subs. by the A. O. 1948 for "the whole of British India."

<sup>4</sup> The words "British Beluchistan and" rep. by the A. O. 1948.

<sup>5</sup> Subs. by the A. O. 1937 for "G. G. in C."

<sup>6</sup> The Explanation to s. 2 rep. by the A. O. 1937.

<sup>7</sup> Subs. by the A. O. 1937 for "L. G."

4. Where, in any trial of an offence upon a complaint under section 2, or in any proceeding before a High Court arising out of section 3, there is a question whether any person is a Ruler of any State, or is the consort or son or principal Minister of such Ruler, a certificate under the hand of a Secretary to the <sup>1</sup>[Central Government] that such person is such Ruler, consort, son or principal Minister shall be conclusive proof of that fact.

Proof of  
status of  
persons  
defamed.

## THE SUGAR INDUSTRY (PROTECTION) ACT, 1932.

Act No. XIII of 1932.<sup>2</sup>

[8th April, 1932.]

An Act to provide for the fostering and development of the sugar industry in 3 [the Provinces of India].

**W**HEREAS it is expedient, in pursuance of the policy of discriminating protection of industries in <sup>3</sup>[the Provinces of India] with due regard to the well-being of the community, to provide for the fostering and development of the sugar industry for a period ending with the 31st day of March, <sup>4</sup>[1949], by determining the extent of the protection to be conferred up to the 31st day of March, 1938, and by making provision for the determination of the extent of the protection to be conferred for the remainder of the period; It is hereby enacted as follows:—

1 This Act may be called the Sugar Industry (Protection) Act, Short title. 1932.

2. [Amendment of schedule II, (Act VIII of 1894).] Rep. by the Repealing Act 1938 (1 of 1938), s. 2 and Sch.

3. The <sup>5</sup>[Central Government] shall cause to be made, by such Statutory persons as <sup>6</sup>[it] may appoint in this behalf, an inquiry to ascertain if the protection of the sugar industry during the period from the 31st day of March, 1938, to the 31st day of March, <sup>4</sup>[1949], should be continued to inquiry.

<sup>1</sup> Subs. by the A. O. 1937 for "G. of I."

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1932, Pt. V, p. 43; for Report of Select Committee, see *ibid.*, p. 91.

The Act has been extended to Berar by the Berar Laws Act, 1941 (1 of 1941).

<sup>3</sup> Subs. by the A. O. 1948 for "British India."

<sup>4</sup> The original figures "1948" was changed into "1947" by the Protective Duties Continuation Act, 1946 (16 of 1946); the figures "1947" was changed into "1948" by the Indian Tariff (Amendment) Act, 1947 (25 of 1947) and the figures "1948" has now been changed into "1949" by the Protective Duties Continuation Act, 1948 (18 of 1948).

<sup>5</sup> Subs. by the A. O. 1937 for "G. G. in C."

<sup>6</sup> Subs. by the A. O. 1937 for "he".

the extent conferred by this Act, or to a greater or lesser extent, and shall, not later than the 31st day of March, <sup>1</sup>[1949], lay <sup>2</sup>[its] proposals in this behalf before the <sup>3</sup>[Central Legislature].

Power to increase duty imposed by section 2.

4. If the <sup>4</sup>[Central Government] is satisfied after such inquiry as <sup>5</sup>[it] thinks fit, that sugar not manufactured in India is being imported into <sup>6</sup>[the Provinces] at such a price as is likely to render insufficient the benefits intended to be conferred upon the sugar industry by the duties imposed by section 2, <sup>3</sup>[it] may, by notification in the <sup>7</sup>[Official Gazette], increase such duty to such extent as <sup>5</sup>[it] thinks fit.

Power to make rules requiring returns.

5. The <sup>4</sup>[Central Government] may, by notification in the <sup>7</sup>[Official Gazette], make rules requiring the owners of sugar factories in <sup>6</sup>[the Provinces] to make such returns relating to the production of sugar in their factories as the <sup>4</sup>[Central Government] may consider to be desirable, prescribing the form of such returns, the dates of their submission and the authority to which they shall be submitted.

Power to make rules requiring notices of prices of sugar-cane to be posted up in sugar factories.

6. (1) The <sup>3</sup>[Provincial Government] may, by notification in the <sup>9</sup>[Official Gazette], make rules requiring that there shall be affixed, in conspicuous places near the entrances to sugar factories, notices for the information of sellers of sugar-cane, and such rules may prescribe the form and languages of such notices, and the particulars to be included therein relating to prices at which sugar-cane is being bought at the factory.

(2) In making such rules the <sup>3</sup>[Provincial Government] may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees.

*Explanation.*—In this section and in section 5 “factory” has the meaning assigned to it in clause (3) of section 2 of the Indian Factories Act, 1911.<sup>10</sup>

XII of 1941.

*SCHEDULE.*—[Amendments to be made in Sch. II to the Indian Tariff Act, 1894.] Rep. by the Repealing Act 1398 (1 of 1938), s. 2 and Sch.

<sup>1</sup> The original figures “1938” was changed into “1939” by the Sugar Industry Protection (Temporary Extension) Act, 1938 (14 of 1938); the figures “1939” was changed into “1941” by the Sugar Industry (Protection) Act, 1939 (20 of 1939); the figures “1941” was changed into “1942” by the Protective Duties Continuation Act, 1941 (8 of 1941); the figures “1942” was changed into “1944” by the Protective Duties Continuation Act, 1942 (11 of 1942); the figures “1944” was changed into “1946” by the Protective Duties Continuation Act, 1944 (13 of 1944); the figures “1946” was changed into “1947” by the Protective Duties Continuation Act, 1946 (16 of 1946); the figures “1947” was changed into “1948” by the Indian Tariff (Amendment) Act, 1947 (25 of 1947) and now the figures “1948” has been changed into “1949” by the Protective Duties Continuation Act, 1948 (18 of 1948).

<sup>2</sup> Subs. by the A. O. 1937 for “his.”

<sup>3</sup> Subs. by the A. O. 1948 for “Indian Legislature”.

<sup>4</sup> Subs. by the A. O. 1948 for “Indian Legislature”.

<sup>5</sup> Subs. by the A. O. 1937 for “G. G. in C.”

<sup>6</sup> Subs. by the A. O. 1937 for “he”.

<sup>7</sup> Subs. by the A. O. 1948 for “British India”.

<sup>8</sup> Subs. by the A. O. 1937 for “Gazette of India”.

<sup>9</sup> Subs. by the A. O. 1937 for “L. G.”

<sup>10</sup> Subs. by the A. O. 1937 for “local official Gazette”.

<sup>11</sup> See now the Indian Factories Act, 1948 (25 of 1948), s. 2 (j)

# THE INDIAN AIR FORCE ACT, 1932.

---

## CONTENTS.

---

### CHAPTER I.

#### PRELIMINARY.

#### SECTIONS.

1. Short title and commencement.
  2. Persons subject to this Act.
  3. Special provision as to rank in certain cases.
  4. Commanding officer of certain persons.
  5. Officers to exercise powers in certain cases.
  6. Definitions.
- 

### CHAPTER II.

#### ENROLMENT, ATTESTATION, DISMISSAL, DISCHARGE AND REDUCTION.

7. Procedure before enrolling officer.
  8. Enrolment.
  9. Conditions for enrolment.
  10. Validity of enrolment.
  11. Persons to be attested.
  12. Mode of attestation.
  13. Dismissal by Central Government.
  14. Dismissal by the Air Officer Commanding or prescribed officer.
  15. Discharge.
  16. Certificate to person dismissed or discharged.
  17. Discharge and dismissal out of India.
  18. Reduction.
- 

### CHAPTER III.

#### PUNISHMENTS AND PENAL DEDUCTIONS.

19. Punishments.
20. Power to award lower punishments.
21. Field punishment.
22. Combination of punishments.
23. Reduction of non-commissioned officers and warrant officers to ranks.
24. Retention in the ranks of person convicted on active service.
25. Minor punishments.
26. Deductions from pay and allowances.

## SECTIONS.

27. Deductions from public money other than pay.
28. Remission of deductions.
29. Provision for dependants of prisoners of war.
30. Unauthorised deductions forbidden.

---

CHAPTER IV.

## AIR FORCE OFFENCES.

31. Service offences punishable with death.
32. Service offences punishable with long imprisonment.
33. Service offences punishable more severely if committed on active service.
34. Service offences punishable with short imprisonment.
35. Mutiny.
36. Insubordination punishable with long imprisonment.
37. Insubordination punishable more severely if committed on active service.
38. Insubordination punishable with short imprisonment.
39. Desertion.
40. Fraudulent enlistment.
41. Connivance at desertion.
42. Absence from duty without leave.
43. Scandalous conduct of officer.
44. Scandalous conduct punishable with long imprisonment.
45. Scandalous conduct punishable with short imprisonment.
46. Intoxication.
47. Permitting escape of prisoner.
48. Irregular keeping in custody.
49. Escape from custody.
50. Offences relating to property.
51. False accusations and offences relating to documents.
52. False answers on enrolment.
53. Offences relating to courts-martial.
54. Offences relating to aircraft.
55. Miscellaneous air force offences.
56. Attempts.
57. Abetment.
58. Civil offences.

---

CHAPTER V.

## ARREST AND PROCEEDINGS BEFORE TRIAL.

59. Custody of offenders.
60. Arrest by civil authorities.
61. Capture of deserters.
62. Inquiry on absence without leave.
63. Provost-marshals.
64. Duties and powers.

## CHAPTER VI.

## CONSTITUTIONS, JURISDICTION AND POWERS OF COURTS-MARTIAL.

## SECTIONS.

65. Kinds of courts-martial.
  66. Power to convene general courts-martial.
  67. Power to convene district courts martial.
  68. Limitation of powers of convening authorities.
  69. Convening of field general courts-martial.
  70. Composition of general courts-martial.
  71. Composition of district courts-martial.
  72. Composition of field general courts-martial.
  73. Dissolution of courts-martial.
  74. Jurisdiction and powers of courts-martial generally.
  75. Jurisdiction and powers of general and field general courts-martial.
  76. Jurisdiction and powers of district courts-martial.
  77. Prohibition of second trial.
  78. Limitation of trial.
  79. Place of trial.
  80. Order in case of concurrent jurisdiction of criminal court and court-martial.
  81. Power of criminal court to require delivery of offender.
  82. Trial by court-martial no bar to subsequent trial by criminal court.
- 

## CHAPTER VII.

## PROCEDURE OF COURTS-MARTIAL.

83. President.
84. Judge Advocate.
85. Challenges.
86. Voting of members.
87. Oaths of president and members.
88. Oaths of witnesses.
89. The summoning of witnesses and production of documents.
90. Commissions to obtain evidence.
91. Conviction of one offence permissible on charge of another.
92. General rule as to evidence.
93. Judicial notice.
94. Presumption as to signatures.
95. Enrolment paper as evidence.
96. Presumption as to certain documents.
97. Reference by accused to Government officer.
98. Evidence of previous convictions and service character.
99. Order for custody and disposal of property pending trial in certain cases.



## CHAPTER VIII.

## CONFIRMATION, REVISION, PARDON AND REMISSION AT SENTENCES.

## SECTIONS.

100. Finding and sentence invalid without confirmation.
  101. Power to confirm finding and sentence of general court-martial.
  102. Power to confirm finding and sentence of district court-martial.
  103. Limitation of powers of confirming authorities.
  104. Confirmation of finding and sentence of field general court-martial.
  105. Power of confirming authority to mitigate, remit or commute sentences.
  106. Confirmation of finding and sentence on board ship.
  107. Revision of finding or sentence.
  108. Substitution of a valid finding or sentence for an invalid finding or sentence.
  109. Provision where accused is a lunatic.
  110. Pardons and remissions.
- 

## CHAPTER IX.

## EXECUTION OF SENTENCES AND DISPOSAL OF PROPERTY.

111. Sentence of death.
  112. Commencement of sentence of imprisonment.
  113. Execution of sentence of imprisonment.
  114. Execution of sentence of imprisonment in special cases.
  115. Execution of sentence of detention.
  116. Communication of certain orders to prison officers.
  117. Offenders sentenced to transportation how dealt with until transported.
  118. Execution of sentence of fine.
  119. Order for disposal of property regarding which offence committed.
  - 119A. Establishment and regulation of air force prisons and detention barracks.
- 

## CHAPTER X.

## SPECIAL RULES RELATING TO PERSONS AND PROPERTY.

120. Complaints against superior officers and airmen.
121. Privileges of persons attending courts-martial.
122. Exemption from arrest for debt.
123. Property exempted from attachment.
124. Application to reservists.
125. Priority of hearing by courts of cases in which persons subject to this Act are concerned.
126. Property of deceased persons and deserters.
127. Disposal of certain property without production of probate, etc.

## (Chapter I.—Preliminary.)

## SECTIONS.

128. Application of sections 126 and 127 to lunatics, etc.  
 128A. Property of officers of the Indian Air Force who die or desert.  
 128B. Powers of Committee of Adjustment.  
 128C. Powers of Central Government to hand over the estate of a deceased officer to Administrator General.  
 128D. Disposal of surplus by the prescribed person.  
 128E. Disposal of effects not money.  
 128F. Disposal of certain property without production of probate, etc.  
 128G. Discharge of Committee, prescribed person and the Crown.  
 128H. Property in the hands of the Committee or the prescribed person not to be assets at the place where the Committee or the prescribed person is stationed.  
 128I. Saving of rights of representative.  
 128J. Application of sections 128B to 128I to lunatics, etc.  
 128K. Appointment of Standing Committee of Adjustment when officers die or desert while on active service.  
 128L. Interpretation.

## CHAPTER XI.

## SUPPLEMENTAL.

129. Power to make rules.  
 130. [*Repealed.*]

THE SCHEDULE.—[*Repealed.*]Act No. XIV of 1932.<sup>1</sup>

[8th April, 1932.]

## An Act to provide for the administration and discipline of the Indian Air Force.

**W**HEREAS it is intended to establish an Indian Air Force;

And whereas it is expedient to provide for the administration and discipline of that Force and for purposes connected therewith;

It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Indian Air Force Act, 1932.

at title  
com-  
ment.

<sup>1</sup> For Statement of Objects and Reasons, see *Gazette of India*, 1932, Pt. V, p. 38; for Report of Select Committee, see *ibid.*, p. 106.

## (Chapter I.—Preliminary.)

(2) It shall come into force on such date<sup>1</sup> as the <sup>2</sup>[Central Government] may, by notification in the <sup>3</sup>[Official Gazette], appoint.

Persons  
subject to  
this Act.

2. (1) The following persons shall be subject to this Act, namely:—

- (a) officers and warrant officers of the Indian Air Force,
- (b) persons enrolled under this Act;
- (c) persons not otherwise subject to military <sup>4</sup>[naval] or air force law, who, on active service, in camp, on the march, or at any frontier post specified by the <sup>2</sup>[Central Government] by notification in this behalf, are employed by, or are in the service of, or are followers of, or accompany any portion of, the Indian Air Force.

(2) Every person who has become subject to this Act under sub-section (1), clause (a) or (b), shall remain so subject until duly discharged or dismissed

Special  
provision as  
to rank in  
certain cases.

3. (1) The <sup>2</sup>[Central Government] may, by notification, direct that any persons or class of persons subject to this Act under section 2, sub-section (1), clause (c), shall be so subject as officers, warrant officers or non-commissioned officers, and may authorise any officer to give a like direction with respect to any such person and to cancel such direction.

(2) All persons subject to this Act other than officers, warrant officers and non-commissioned officers shall, if they are not persons in respect of whom a notification or direction under sub-section (1) is in force, be deemed to be of a rank inferior to that of a non-commissioned officer.

Command-  
ing officer of  
certain  
persons.

4. Every person subject to this Act under section 2, sub-section (1), clause (c), shall, for the purposes of this Act, be deemed to be under the command of the corps, unit or detachment (if any) to which he is attached, and if he is not attached to any corps, unit or detachment, under the command of any officer who may for the time being be named as his commanding officer by the officer commanding the force with which such person may for the time being be serving, or of any other prescribed officer, or, if no such officer is named or prescribed, under the command of the said officer commanding the force:

Provided that an officer commanding a force shall not place a person under the command of an officer of official rank inferior to that of such person if there is present at the place where such person is any officer of higher rank under whose command he can be placed.

<sup>1</sup> 8th October, 1932; see Gazette of India, 1932, Pt. I, p. 1140.

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>3</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>4</sup> Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

## (Chapter I.—Preliminary.)

5. (1) Whenever persons subject to this Act are serving whether within or without India under an officer not subject to this Act, the <sup>1</sup>[Central Government] may prescribe the officer by whom the powers which, under this Act, may be exercised by officers commanding units, shall, as regards such persons, be exercised. (Officers to exercise powers in certain cases.)

(2) The <sup>1</sup>[Central Government] may confer such powers either absolutely or subject to such restrictions, reservations, exceptions and conditions as <sup>2</sup>[it] may think fit.

6. In this Act, unless there is something repugnant in the subject or context,— Definitions.

- (1) "officer of the Indian Air Force" means a person commissioned, gazetted or in pay as an officer of the Indian Air Force ;
- (2) "warrant officer" means a person appointed, gazetted or in pay as a warrant officer in the Indian Air Force ;
- (3) "non-commissioned officer" means a person attested under this Act holding a non-commissioned rank in the Indian Air Force, and includes an acting non-commissioned officer ;
- (4) "officer" means an officer of any of His Majesty's naval, military or air forces, but does not include a warrant officer or non-commissioned officer ;
- (5) "airman" means any person subject to this Act other than an officer ;
- (6) "commanding officer", used in relation to a person subject to this Act, means the officer for the time being in command of the unit or detachment to which such person belongs or is attached ;
- (7) "superior officer", when used in relation to a person subject to this Act, includes a warrant officer and a non-commissioned officer ; and, as regards persons placed under his orders, an officer, a warrant officer or non-commissioned officer of any of His Majesty's naval, military or air forces ;
- (8) "corps" means any body of the Indian Air Force which is prescribed as a corps for the purposes of all or any of the provisions of this Act ;
- (9) "unit" means any body of the Indian Air Force which is prescribed as a unit for the purposes of all or any of the provisions of this Act ;
- (10) "enemy" includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of a person subject to naval, military or air force law to act ;

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>2</sup> Subs. by the A.O. 1937 for "he".

## (Chapter I.—Preliminary.)

- <sup>1</sup>(11) "active service", as applied to a person subject to this Act, means the time during which such person is attached to, or forms part of, a force which is engaged in operations against an enemy, or is engaged in warlike operations in, or is on the line of march to, a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country, and includes, in respect of a person subject to this Act attached to or forming part of a force which is about to be or has recently been on such active service, such time as the <sup>2</sup>[Central Government] may, by notification in the <sup>3</sup>[Official Gazette], declare to be active service in respect of such force;
- (12) "air force custody" means the arrest or confinement of a person according to the usages of His Majesty's military and air forces, and includes military custody;
- (13) "air force reward" includes any gratuity or annuity for long service or good conduct, any good conduct pay, good service pay or pension, and any other air force pecuniary reward.
- (14) "Court-martial" means a court-martial held under this Act;
- (15) "criminal court" means a court of ordinary criminal justice in <sup>4</sup>[the Provinces], or established elsewhere by the authority of the <sup>5</sup>[Central Government \* \* \*],
- (16) "offence" means any act or omission made punishable by any law for the time being in force;
- (17) "air force offence" means any act or omission made punishable by this Act;
- (18) "civil offence" means an offence which, if committed in <sup>6</sup>[the Provinces], would be triable by a criminal court;
- .. \* \* \*
- (20) "notification" means a notification published in the <sup>3</sup>[Official Gazette];
- (21) "prescribed" means prescribed by rules made under this Act; and
- (22) all words and expressions used herein and defined in the Indian Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code. XLV of 1860.

<sup>1</sup> This clause has been supplemented by the Essential Services (Maintenance) Ordinance, 1941 (10 of 1941).

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>3</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>4</sup> Subs. by the A.O. 1948 for "British India".

<sup>5</sup> The words "or the Crown Representative" rep. by the A.O. 1948.

<sup>6</sup> Cl. (19) rep. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

## (Chapter II.—Enrolment, Attestation, Dismissal, Discharge and Reduction.)

## CHAPTER II.

## ENROLMENT, ATTESTATION, DISMISSAL, DISCHARGE AND REDUCTION.

7. Upon the appearance before the prescribed enrolling officer of any person desirous of being enrolled, the enrolling officer shall read and explain to him, or cause to be read and explained to him in his presence, the conditions of the service for which he is to be enrolled; and shall put to him the questions set forth in the prescribed form of enrolment, and shall, after having cautioned him that if he makes a false answer to any such question he will be liable to punishment under this Act, record or cause to be recorded his answer to each such question

Procedure  
before enrol-  
ling officer.

8. If, after complying with the provisions of section 7 the enrolling officer is satisfied that the person desirous of being enrolled fully understands the questions put to him and consents to the conditions of service, and if he perceives no impediment, he shall sign and shall cause the person to sign the enrolment paper, and the person shall be then deemed to be enrolled.

Enrolment.

9 The enrolling officer shall not cause any person to sign the enrolment paper unless he is satisfied that such a person is <sup>1</sup>[a British subject or the subject of an Acceding State], and—

Conditions  
for enrol-  
ment.

- (a) is of unmixed Indian descent, or
- (b) if he is of mixed Indian and non-Indian descent, is domiciled in India, or
- (c) if he is of unmixed non-Indian Asiatic descent, is domiciled in India and his father and grandfather were domiciled in India.

<sup>2</sup>10 Every person who has for the space of three months been in the receipt of air force pay and been borne on the rolls of any unit shall be deemed to have been duly enrolled and shall not be entitled to claim his discharge on the ground of any irregularity or illegality in his enrolment or on any other ground whatsoever; <sup>3</sup>[and if any person, in receipt of air force pay and borne on the rolls as aforesaid, claims his discharge before the expiry of three months from his enrolment no such irregularity or illegality or other ground shall, until he is discharged] in pursuance of his claim, affect his position as a person enrolled under this Act or invalidate any proceedings, act or thing taken or done prior to his discharge.]

Validity of

11. The following persons shall be attested, namely:—

- (a) all persons enrolled as combatants;
- (b) all other enrolled persons prescribed by the <sup>4</sup>[Central Government.]

Persons to  
be attested.

<sup>1</sup> Subs. by the A.O. 1948 for "a subject of His Majesty or of a Prince or Chief in India".

<sup>2</sup> Subs. by the Army and Air Force (Amendment) Ordinance, 1942 (58 of 1942), s. 3.

<sup>3</sup> Subs. by the Repealing and Amending Act, 1945 (6 of 1945), s. 3 and Sch. II for "and if within the said three months such person claims his discharge any such irregularity or illegality or other ground shall not, until such person is discharged".

<sup>4</sup> Subs. by the A.O. 1937 for "G. G. in C."

*(Chapter II.—Enrolment, Attestation, Dismissal, Discharge and Reduction.)*

**Mode of  
attestation.**

12. (1) When a person who is to be attested is reported fit for duty, or has completed the prescribed period of probation, an oath or affirmation shall be administered to him in the prescribed form by his commanding officer in front of his unit or such portion thereof as may be present, or by any other prescribed person.

(2) The form of oath or affirmation prescribed under this section shall contain a promise that the person to be attested will be faithful to His Majesty, his heirs and successors, and that he will serve in the Indian Air Force and go wherever he is ordered by air, land or sea, and that he will obey all commands of any officer set over him, even to the peril of his life.

(3) The fact of an enrolled person having taken the oath or affirmation directed by this section to be taken shall be entered on his enrolment paper, and authenticated by his signature and by the signature of the officer administering the oath or affirmation.

**Dismissal by  
Central Government.**

13. The [Central Government] may at any time dismiss from the service any person subject to this Act.

**Dismissal by  
the Air  
Officer Com-  
manding or  
prescribed**

14. The Air Officer Commanding His Majesty's Air Forces in India, or any prescribed officer, may at any time dismiss from the service any person subject to this Act other than an officer.

**Discharge.**

15. The prescribed authority may, in conformity with any rules prescribed in this behalf, discharge from the service any person subject to this Act.

**Certificate  
to person  
dismissed or  
discharged,**

16. Any enrolled person who is dismissed or discharged from the service shall be furnished by his commanding officer with a certificate setting forth—

- (a) the authority dismissing or discharging him;
- (b) the cause of his dismissal or discharge; and
- (c) the full period of his service in the Indian Air Force.

**Discharge  
and dismissal  
out of India.**

17. (1) Any enrolled person who is entitled under the conditions of his enrolment to be discharged, or whose discharge is ordered by competent authority, and who, when he is so entitled or ordered to be discharged, is serving out of India, and requests to be sent to India, shall, before being discharged, be sent to India with all convenient speed.

(2) Any person subject to this Act who is dismissed from the service and who, when he is so dismissed, is serving out of India, shall be sent to India with all convenient speed:

Provided that, where any such person is sentenced to dismissal combined with any other punishment, such other punishment, or, in the case of a sentence of imprisonment, a portion of such other punishment, may be inflicted before he is sent to India.

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C.".

(Chapter II.—Enrolment, Attestation, Dismissal, Discharge and Reduction. Chapter III.—Punishments and Penal Deductions.)

18. (1) The Air Officer Commanding His Majesty's Air Forces in India, or any prescribed officer, may at any time reduce any warrant officer or any non-commissioned officer to a lower grade or to a lower rank or to the ranks, or any airman other than a warrant officer or non-commissioned officer to a lower class in the ranks.

(2) The commanding officer of an acting non-commissioned officer may order him to revert to his permanent grade as a non-commissioned officer or, if he has no permanent grade above the ranks, to the ranks.

### CHAPTER III.

#### PUNISHMENTS AND PENAL DEDUCTIONS.

19. Punishments may be inflicted in respect of offences committed by persons subject to this Act, and convicted by court-martial, according to the scale following, that is to say,— Punish-  
ments.

- (a) death;
- (b) imprisonment, which shall be of two degrees, namely:—
  - (i) long imprisonment, which shall be rigorous and for a term not less than three years and not exceeding fourteen years, and
  - (ii) short imprisonment, which may be rigorous or simple, for a term not exceeding two years;
- (c) in the case of airmen, detention for a term not exceeding two years;
- (d) dismissal from the service;
- (e) in the case of officers and warrant officers, suspension from rank, pay and allowances for a period not exceeding two months;
- (f) reduction, in the case of a warrant officer, or a non-commissioned officer, to a lower grade, or to a lower rank or to the ranks;
- (g) in the case of officers, warrant officers and non-commissioned officers, forfeiture of seniority of rank;
- (h) in the case of officers, warrant officers and non-commissioned officers, reprimand or severe reprimand;
- (i) forfeitures and stoppages as follows, namely:—
  - (i) forfeiture of service for the purpose of promotion, increased pay, pension or any other prescribed purpose;
  - (ii) forfeiture of any military <sup>1</sup>[naval] or airforce decoration or military <sup>1</sup>[naval] or air force reward;
  - (iii) forfeiture, in the case of a person sentenced to dismissal from the service, of all arrears of pay and allowances due to him at the time of such dismissal;

<sup>1</sup> Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.



## (Chapter III.—Punishments and Penal Deductions.)

- (iv) stoppages of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good;
- (v) on active service, forfeiture of pay and allowances for a period not exceeding three months.

**Power to award lower punishments.** 20. Where in respect of any offence under this Act there is specified particular punishment, there may be awarded in respect of that offence instead of such particular punishment (but subject to the other provisions of this Act as to punishments and regard being had to the nature and degree of the offence) any one punishment lower in the above scale than the particular punishment.

**Field punishment.** 21. (1) Where any person, subject to this Act and under the rank of warrant officer, on active service is guilty of any offence, it shall be lawful for a court-martial to award for that offence any such punishment as may be prescribed as a field punishment. Field punishment shall be of the character of personal restraint or of hard labour but shall not be of a nature to cause injury to life or limb.

(2) Field punishment shall, for the purpose of commutation, be deemed to stand in the scale of punishments next below dismissal.

**Combination of punishments.** 22. A sentence of a court-martial may award, in addition to or without any one other punishment, any one or more of the punishments specified in clauses (d), (f), (h) and (i) of section 19.

**Reduction of non-commissioned officers and warrant officers to ranks.** 23. A warrant officer or non-commissioned officer sentenced by court-martial to imprisonment, detention, field punishment or dismissal from the service, shall be deemed to be reduced to the ranks.

**Retention in the ranks of person convicted on active service.** 24. When any enrolled person on active service has been sentenced by court-martial to dismissal or to imprisonment, whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and where such person has been sentenced to imprisonment, such service shall be reckoned as part of his term of imprisonment.

**Minor punishments.** 25. (1) The [Central Government] may prescribe the minor punishments to which persons subject to this Act shall be liable without the intervention of a court-martial, and the officer or officers by whom, and the extent to which, such minor punishments may be awarded.

(2) Detention and, in the case of persons subject to this Act on active service, any prescribed field punishment may be specified as minor punishments:

Provided that—

- (a) the term of such detention or field punishment shall not exceed twenty-eight days; and

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C."

*(Chapter III.—Punishments and Penal Deductions.)*

- (b) detention or field punishment shall not be awarded to any person of or above the rank of non-commissioned officer, or who, when he committed the offence in respect of which it is awarded, was of or above such rank.

(3) The provisions of sections 77, 78 and 79 shall apply to the proceedings of officers empowered to award minor punishments under this section as if such officers were courts-martial.

26. (1) The following penal deductions may be made from the pay and allowances of an officer of the Indian Air Force, that is to say,— Deductions from pay and allowances.

- (a) all pay and allowances due to an officer who absents himself without leave or overstays the period for which leave of absence has been granted to him, unless a satisfactory explanation has been given to his commanding officer and has been approved by the <sup>1</sup>[Central Government];
- (b) any sum required to make good such compensation for any expenses, loss, damage or destruction occasioned by the commission of any offence as may be determined by the court-martial by whom he is convicted of such offence <sup>2</sup>[or by an officer exercising authority under section 25],
- (c) any sum required to make good the pay of any officer or airmen which he has unlawfully retained or unlawfully refused to pay;
- (d) any sum required to make good any loss, damage or destruction of public or service property which, after due investigation, appears to the <sup>1</sup>[Central Government] to have been occasioned by any wrongful act or negligence on the part of the officer

(2) The following penal deductions may be made from the pay and allowances of an airman, that is to say,—

- (a) all pay and allowances for every day of absence either on desertion or without leave, or as a prisoner of war, and for every day of imprisonment or detention awarded by a criminal court, a court-martial or an officer exercising authority under section 25, or of field punishment, awarded by a court-martial or such officer;
- (b) all pay and allowances for every day whilst he is in custody on a charge for an offence of which he is afterwards convicted by a criminal court or court-martial, or on a charge of absence without leave for which he is afterwards awarded imprisonment, detention or field punishment by an officer exercising authority under section 25;

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C.".

<sup>2</sup> Added by the Indian Army and Indian Air Force (Amendment) Act, 1949 (21 of 1949), s. 6.

(Chapter III.—Punishments and Penal Deductions.)

- (c) all pay and allowances for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by an offence under this Act committed by him;
- (d) for every day on which he is in hospital on account of sickness certified by the medical officer attending on him to have been caused by his own misconduct or imprudence, such sum as may be prescribed;
- (e) all pay and allowances ordered by a court-martial to be suspended or forfeited;
- (f) any sum ordered by a court-martial to be stopped;
- (g) any sum required to make good such compensation for any expenses caused by him, or for any loss of or damage or destruction done by him to any arms, ammunition, equipment, clothing, instruments, service necessaries, or military decoration, or to any buildings or property, as may be awarded by his commanding officer,
- (h) any sum required to pay a fine awarded by a criminal court, a court-martial exercising jurisdiction under section 58 or an officer exercising authority under section 25.

Provided that the total deductions from the pay and allowances of a person subject to this Act made under clauses (c) to (h) both inclusive, shall not (except in the case of a person sentenced to dismissal) exceed in any one month one-half of his pay and allowances for that month.

*Explanation.*—For the purposes of clauses (a) and (b) :

- (i) no person shall be treated as absent, imprisoned, or detained, unless the absence, imprisonment, or detention has lasted six hours or upwards, except where the absence prevented the absentee from fulfilling any air force duty which was thereby thrown on some other person;
- (ii) a period of absence, imprisonment, or detention which commences before and ends after midnight may be reckoned as a day;
- (iii) the number of days shall be reckoned as from the time when the absence, imprisonment, or detention commences; and
- (iv) no period of less than twenty-four hours shall be reckoned as more than one day.

Deductions from public money other than pay.

27. Any sum authorised by this Act to be deducted from the pay and allowances of any person may, without prejudice to any other mode of recovering the same, be deducted from any public money due to him other than a pension.

(Chapter III.—Punishments and Penal Deductions. Chapter IV.  
Air Force Offences.)

28. Any deduction from pay and allowances authorised by this Act may be remitted in such manner and to such extent and by such authority as may from time to time be prescribed. Remission of deductions,

29. In the case of all persons subject to this Act being prisoners of war whose pay and allowances have been forfeited under section 26, but in respect of whom a remission has been made under section 28, it shall be lawful, notwithstanding any provision in any enactment or any rule of law to the contrary, for proper provision to be made by the prescribed authorities out of such pay and allowances for any dependants of such persons, and any such remission shall in that case be deemed to apply only to the balance thereafter remaining of such pay and allowances. Provision for dependants of prisoners of war.

30. The pay of an officer or airman of the Indian Air Force shall be paid without any deduction other than the deductions authorised by this Act or by any other enactment for the time being in force or prescribed by the [Central Government.] Unauthorised deductions. forbidden

## CHAPTER IV.

### AIR FORCE OFFENCES

31. Any person subject to this Act who—

- (a) shamefully abandons or delivers up any garrison, fortress, post, or guard committed to his charge, or which it is his duty to defend, or
- (b) shamefully casts away his arms, ammunition or tools in the presence of the enemy, or
- (c) treacherously holds correspondence with or gives intelligence to the enemy, or treacherously or through cowardice sends a flag of truce to the enemy, or
- (d) assists the enemy with arms, ammunition, or supplies, or knowingly harbours or protects an enemy not being a prisoner, or
- (e) having been made a prisoner of war, voluntarily serves with or voluntarily aids the enemy, or
- (f) voluntarily does when on active service any act calculated to imperil the success of His Majesty's Forces or any part thereof, or
- (g) treacherously or shamefully causes the capture or destruction by the enemy of any of His Majesty's aircraft, or

Service offences punishable with death.

## (Chapter IV.—Air Force Offences.)

- (h) treacherously gives any false air signal or alters or interferes with any air signal, or
- (i) when ordered by his superior officer or otherwise under orders to carry out any warlike operation in the air, treacherously or shamefully fails to use his utmost exertions to carry such orders into effect,

shall be punishable with death

**Service offences punishable with long imprisonment.**

32. Any person subject to this Act who, on active service,—

- (a) without orders from his superior officer leaves the ranks in order to secure prisoners or horses, or on pretence of taking wounded men to the rear, or
- (b) without orders from his superior officer wilfully destroys or damages any property, or
- (c) is taken prisoner by want of due precaution or through disobedience of orders or wilful neglect of duty, or, having been taken prisoner, fails to rejoin His Majesty's service when able to do so, or
- (d) without due authority either holds correspondence with, or gives intelligence, or sends a flag of truce to the enemy, or
- (e) by word of mouth, or in writing or by signals, or otherwise spreads reports calculated to create unnecessary alarm or despondency, or
- (f) in action, or previously to going into action, uses words calculated to create alarm or despondency, or
- (g) negligently causes the capture or destruction by the enemy of any of His Majesty's aircraft, or
- (h) when ordered by his superior officer or otherwise under orders to carry out any warlike operation in the air, negligently or through other default fails to use his utmost exertions to carry such orders into effect, or
- (i) misbehaves before the enemy in such manner as to show cowardice,

shall be punishable with long imprisonment.

**Service offences punishable more severely if committed on active service.**

33. (1) Any person subject to this Act who treacherously makes known the watchword to any person not entitled to receive it, or treacherously gives a watchword different from what he received, shall, if he commits the offence on active service, be punishable with death, and, if he commits the offence not on active service, with short imprisonment,

## (Chapter IV.—Air Force Offences.)

(2) Any person subject to this Act who—

- (a) without due authority alters or interferes with any air signal, or
- (b) forces a safeguard, or
- (c) forces or strikes a sentinel, or
- (d) breaks into any house or other place in search of plunder, or
- (e) being an airman acting as sentinel, sleeps or is intoxicated, or
- (f) without orders from his superior officer leaves his guard, piquet, patrol or post, or
- (g) by discharging fire arms, making signals, using words, or by any means whatever, intentionally occasions false alarms, or
- (h) being an airman acting as sentinel, leaves his post before he is regularly relieved.

shall, if he commits the offence on active service, be punishable with long imprisonment and, if he commits the offence not on active service, with short imprisonment.

34. Any person subject to this Act who—

- (a) by discharging fire arms, making signals, using words, or by any means whatever, negligently occasions false alarms, or
- (b) makes known the watchword to any person not entitled to receive it, or, without good and sufficient cause, gives a watchword different from what he received, or
- (c) impedes the provost-marshal or any assistant provost-marshal or any officer or non-commissioned officer or other person legally exercising authority under or on behalf of the provost-marshal, or, when called on, refuses to assist in the execution of his duty the provost marshal, the assistant provost-marshal, or any such officer, non-commissioned officer or other person, or
- (d) uses criminal force to or commits an assault on any person bringing provisions or supplies to the forces, or commits any offence against the property or person of any inhabitant of or resident in the country in which he is serving, or
- (e) irregularly detains or appropriates to his own unit or detachment any provisions or supplies proceeding to the forces, contrary to orders issued in that respect,

Service  
offences  
punishable  
with short  
imprison-  
ment.

shall be punishable with short imprisonment.

## (Chapter IV.—Air Force Offences.)

Mutiny.

35. Any person subject to this Act who—

- (a) begins, incites, causes or conspires with any other persons to cause any mutiny in any of His Majesty's naval, military or air forces, or
- (b) joins in, or, being present, does not use his utmost endeavours to suppress, any such mutiny, or
- (c) knowing or having reason to believe in the existence of any such mutiny, or of any intention to commit such mutiny, or of any such conspiracy, does not without delay give information thereof to his commanding or other superior officer.

shall be punishable with death.

Insubordina-  
tion punish-  
able with  
long impri-  
sonment.

36. Any person subject to this Act who—

- (a) uses criminal force to or assaults his superior officer, being in the execution of his office, or
- (b) disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office.

shall be punishable with long imprisonment

Insubordina-  
tion punish-  
able more  
severely if  
committed  
on active  
service.

37. Any person subject to this Act who—

- (a) uses criminal force to or assaults his superior officer, or
- (b) uses threatening or insubordinate language to his superior officer,  
or
- (c) disobeys any lawful command given by his superior officer,

shall, if he commits the offence on active service, be punishable with long imprisonment, and, if he commits the offence not on active service, with short imprisonment.

Insubordina-  
tion punish-  
able with  
short im-  
prisonment.

38. Any person subject to this Act who—

- (a) being concerned in any quarrel, affray or disorder, refuses to obey any officer (though of inferior rank) who orders him into arrest, or uses criminal force to or assaults any such officer, or
- (b) uses criminal force to or assaults any person, whether subject to this Act or not, in whose custody he is placed, whether he is or is not his superior officer, or
- (c) resists an escort whose duty it is to apprehend him or to have him in charge, or
- (d) being an airman, breaks out of barracks, camp or quarters, or
- (e) neglects to obey any general, local or other orders (not being orders in the nature of a rule or regulation published for the general information and guidance of the Indian Air Force).

shall be punishable with short imprisonment.

## (Chapter IV.—Air Force Offences.)

39. Any person subject to this Act who deserts or attempts to desert the service shall, if he commits the offence when on active service or under orders for active service, be punishable with long imprisonment, and, if he commits the offence under any other circumstances, with short imprisonment.

Desertion.

40. Any person subject to this Act who, when belonging to the Indian Air Force, without having obtained a regular discharge therefrom, or otherwise fulfilled the conditions enabling him to enlist, enrol or enter, enrolls himself, or enlists in or enters any other of His Majesty's air forces, or any of His Majesty's military or naval forces, or re-enrolls himself in the Indian Air Force, shall be deemed to be guilty of fraudulent enlistment, and shall be punishable with short imprisonment.

Fraudulent enlistment.

41. Any person subject to this Act, who being cognisant of any desertion or intended desertion of a person subject to this Act, does not forthwith give notice to his commanding officer, or take any steps in his power to cause the deserter or intending deserter to be apprehended, shall be punishable with short imprisonment.

Connivance at desertion.

42. Any person subject to this Act who—

Absence from duty without leave.

- (a) absents himself without leave, or
- (b) fails to appear at the time fixed at a parade or place appointed for exercise or duty, or goes from thence without leave before he is relieved, or without necessity quits his duty or duties, or
- (c) being an airman, when in camp or garrison or elsewhere, is found beyond any limits fixed or in any place prohibited by any general, local or other order, without a pass or written leave from his superior officer, or
- (d) being an airman, without leave from his superior officer, or without due cause, absents himself from any school when duly ordered to attend there,

shall be punishable with short imprisonment.

43. Any officer or warrant officer subject to this Act who behaves in a manner unbecoming his position and character shall, notwithstanding any thing contained in section 20, be dismissed from the service.

Scandalous conduct of officer.

44. Any person subject to this Act who—

- (a) steals any property of <sup>1</sup>[the Crown] or dishonestly misappropriates or converts to his own use any property of <sup>1</sup>[the Crown] entrusted to him, or

Scandalous conduct punishable with long imprisonment.



## (Chapter IV.—Air Force Offences.)

- (b) dishonestly receives or retains any property in respect of which an offence under clause (a) has been committed, knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted, or
- (c) wilfully destroys or damages any property of <sup>1</sup>[the Crown] entrusted to him, or
- (d) steals any property of any air force mess, band or institution, or of any person subject to this Act or serving with or attached to the Indian Air Force, or dishonestly misappropriates or converts to his own use any such property entrusted to him, or
- (e) dishonestly receives or retains any property in respect of which an offence under clause (d) has been committed, knowing or having reason to believe it to have been stolen or dishonestly misappropriated or converted,

shall be punishable with long imprisonment.

Scandalous  
conduct  
punishable  
with short  
imprison-  
ment.

45. Any person subject to this Act who—

- (a) does any act, not otherwise specified in this Act, with intent to defraud, or to cause wrongful gain to one person or wrongful loss to another person, or
- (b) malingers or feigns or produces disease or infirmity himself, or intentionally delays his cure or aggravates his disease or infirmity, or
- (c) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person, or
- (d) commits any offence of a cruel, indecent or unnatural kind, or attempts to commit any such offence and does any act towards its commission,

shall be punishable with short imprisonment.

Intoxication.

46. Any person subject to this Act who is found in a state of intoxication, whether on duty or not on duty, shall be punishable, if an officer, with dismissal from the service, and, if an airman, with short imprisonment:

Provided that where the offence of being intoxicated is committed by an airman not on active service or on duty, the sentence imposed shall not exceed detention for a period of six months.

Permitting  
escape of  
prisoner.

47. Any person subject to this Act who—

- (a) when in command of a guard, piquet, patrol or post, releases without proper authority, whether voluntarily or otherwise, any person committed to his charge, or

---

<sup>1</sup> Subs. by the A.O. 1987 for "Govt."

(Chapter IV - In Some Offices)

(b) velm nuly a r 5 hlymly allows to es the any 1 s a  
conn ct to m n n sp o w n n  
and

and it has been published voluntarily with both men.

48 An<sup>y</sup> person since to him A t v ho—

(a)  $\text{am} = \text{cs}$  (b)  $\text{am} = \text{cs}$   
 (c)  $\text{am} = \text{cs}$  (d)  $\text{am} = \text{cs}$   
 (e)  $\text{am} = \text{cs}$  (f)  $\text{am} = \text{cs}$

[illegible]

(c) I am concerned that the value of the property will be reduced by the effect of the proposed development on the surrounding area. I am also concerned that the proposed development will be a detriment to the health and safety of the surrounding community. I am also concerned that the proposed development will be a detriment to the health and safety of the surrounding community.

to be punished with short imprisonment

**49** Any person subject to this Act who being lawfully confined escapes or attempts to escape shall be punishable with imprisonment for a term not exceeding three years or with fine not exceeding one thousand rupees or with both.

50 Any person liable to this Act who-

(d) ... this extension or without payment of ...  
person carriage portorage or provisions of

(b) in time of peace commits homicide for the purpose of  
plundering or plunders, destroys or damages any building,  
or other property, or

(c) voluntarily or negligently kills, injures, maims, or causes the death of any person or treats or loses any animal used in the police service.

(d) makes away with or is concerned in the giving or receiving of arms, ammunition, equipments, instruments, books, papers, or service necessities issued to him or required of him, or retained by him, or

(e) loses by neglect anything mentioned in clause (d), or

## (Chapter IV.—Air Force Offences.)

- (f) wilfully damages anything mentioned in clause (d) or any property belonging to <sup>1</sup>[the Crown], or to any air force mess, band or institution, or to any person subject to air force law, or serving with, or attached to the Indian Air Force, or
- (g) sells, pawns, destroys or defaces any medal or decoration granted to him,

shall be punishable with short imprisonment.

False accusations and offences relating to documents.

## 51. Any person subject to this Act who—

- (a) makes a false accusation against any person subject to this Act, knowing such accusation to be false, or
- (b) in making any complaint under section 120, knowingly makes any false statement affecting the character of any person subject to this Act, or knowingly and wilfully suppresses any material fact, or
- (c) obtains or attempts to obtain for himself or for any other person any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any document, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement, or
- (d) knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to <sup>1</sup>[the Crown] or to any person in or attached to the Indian Air Force, or who, wilfully or negligently, omits or refuses to make or send any return or report of the matters aforesaid,

shall be punishable with short imprisonment

False answers on enrolment.

52. Any person having become subject to this Act who is discovered to have made a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer shall be punishable with short imprisonment.

Offences relating to courts-martial.

## 53. Any person subject to this Act who—

- (a) when duly summoned to attend as a witness before a court-martial, intentionally omits to attend or refuses to be sworn or affirmed or to answer any question, or to produce or deliver up any document or other thing which he may have been duly warned and called upon to produce or deliver up, or

---

<sup>1</sup> Subs by the A.O. 1937 for "Govt."

## (Chapter IV.—Air Force Offences.)

- (b) intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful word, sign or gesture, or is insubordinate or violent in the presence of, a court-martial while sitting, or
- (c) having been duly sworn or affirmed before any court-martial or other court or officer authorised by this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true,

shall be punishable with short imprisonment.

54 Any person subject to this Act who—

Offences  
relating to  
aircraft.

- (a) voluntarily, or negligently damages, destroys or loses any of His Majesty's aircraft or aircraft material, or
- (b) is guilty of any act or omission likely to cause such damage, destruction or loss, or
- (c) is guilty of any act or omission (whether voluntary or otherwise) which causes damage to or destruction of any public property by fire, or
- (d) without lawful authority disposes of any of His Majesty's aircraft or aircraft material, or
- (e) is guilty of any act or omission in flying or in the use of any aircraft, or in relation to any aircraft or aircraft material which causes or is likely to cause loss of life or bodily injury to any person, or
- (f) during a state of war voluntarily and without proper occasion or negligently causes the sequestration, by or under the authority of a neutral State, or the destruction in a neutral State of any of His Majesty's aircraft,

shall be punishable, if he has acted voluntarily, with long imprisonment, and if he has not acted voluntarily, with short imprisonment.

55. Any person subject to this Act who—

Miscellaneous  
air force  
offences.

- (a) strikes or otherwise ill-treats any person subject to this Act being his subordinate in rank or position, or
- (b) being in command at any post or on the march and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority, or
- (c) by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person, or

## (Chapter IV.—Air Force Offences.)

- (d) attempts to commit suicide and does any act towards the commission of such offence, or
- (e) being below the rank of warrant officer, when off duty, appears, without proper authority, in or about camp or cantonment or in or about, or when going to or returning from, a street or bazaar carrying a sword, bludgeon or other offensive weapon, or
- (f) directly or indirectly accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service, or
- (g) is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and air force discipline

shall be punishable with short imprisonment

**Attempts.** 56 Any person subject to this Act who attempts to commit an air force offence or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence in which no express provision is made by this Act for the punishment of such attempt shall be punishable with the punishment provided in this Act for such offence.

**Abetment.** 57 Any person subject to this Act who abets the commission of any air force offence, or of any offence punishable under the Army Act, 1907, the Naval Discipline Act or that Act as modified by the Indian Navy Discipline Act, 1934, the Air Force Act or the Indian Army Act, 1911, such offence being of the same nature as any air force offence, shall be punishable with the punishment provided in this Act for such air force offence.

44 & 45 Vict,  
c. 58.  
29 & 30 Vict,  
c. 109.  
XXXIV of  
1934.  
7 Geo. 5,  
c. 51.  
VIII of 1911.

**Civil offences.** 58 (1) Any person subject to this Act who at any place in or beyond the [Provinces] commits any civil offence shall be deemed to be guilty of an air force offence, and, if charged therewith under this section, shall be liable to be tried by court-martial and to be punished as follows, that is to say:—

- (a) if the offence is one which would be punishable under the law of 2[the Provinces] with death or with transportation, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by the law of 2[the Provinces]; and
- (b) in other cases, he shall be liable to suffer any punishment, other than whipping, assigned for the offence by the law of 2[the Provinces], or such punishment as might be awarded to him in pursuance of this Act in respect of an act prejudicial to good order and air force discipline;

<sup>1</sup> Ins. by the Amending Act, 1934 (35 of 1934), s. 2 and Sch.

<sup>2</sup> Subs. by the A.O. 1946 for "British India".

*(Chapter IV—Air Force Offences (Chapter V—Arrest and Proceedings before Trial)*

26 Geo 5,  
c. 2  
53 & 54 Vict  
c. 37

Provided\* that a person subject to this Act who at any place in [the Provinces] or at any place in which [the Central Government or the Crown Representative] exercises powers and jurisdiction by virtue of [the Government of India Act, 1935 or of any Order in Council under the Government of India Act, 1890] and who is concerned in a crime consisting of murder or culpable homicide or in a crime punishable by this Act or an offence of rape, shall not be deemed to be guilty of an air force offence and shall not be tried by court-martial.

(2) The powers of a court-martial to charge and to punish a person under this section shall not be affected by reason of the offence with which such person is charged being also an air force offence.

## CHAPTER V

### ARREST AND PROCEEDINGS BEFORE TRIAL

59 (1) Any person subject to this Act who is charged with an offence<sup>1</sup> may be taken into air force custody<sup>2</sup> Custody of officers.

(2) Any such person may be ordered into air force custody by any superior officer.

(3) The charge against every person taken into air force custody shall, without unnecessary delay, be investigated by the commanding officer, and as soon as may be other proceedings shall be taken for punishing the offence or such person shall be discharged from custody.

60 Whenever any person subject to this Act who is charged with an offence under this Act is within the jurisdiction of any Magistrate or police officer, such Magistrate or officer shall aid in the apprehension and delivery to air force custody of such person upon receipt of a written application to that effect signed by his commanding officer. Arrest by civil authorities.

61 (1) Whenever any person subject to this Act deserts, his commanding officer shall give written information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter, and such authorities shall then or may take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter, when apprehended, to air force custody. Capture of deserters.

(2) Any police-officer may arrest without warrant any person reasonably believed to be subject to this Act and to be travelling without authority, and shall bring him without delay before the nearest Magistrate to be dealt with according to law.

<sup>1</sup> Subs. by the A.O. 1948 for "British India".

<sup>2</sup> Subs. by the A.O. 1937 for "the G. G. in C."

<sup>3</sup> Subs. by the A.O. 1937 for "the Indian (Foreign Jurisdiction) Order in Council, 1902".

*(Chapter V.—Arrest and Proceedings before Trial. Chapter VI.—Constitution, Jurisdiction and Powers of Courts-martial.)*

**Inquiry on  
absence with-  
out leave.**

62. (1) When any person subject to this Act has been absent without due authority from his duty for a period of twenty-one days, a court of inquiry shall, as soon as practicable, be assembled and, upon oath or affirmation administered in the prescribed manner, shall inquire respecting the absence of the person, and the deficiency, if any, of property of [the Crown] entrusted to his care, or of his arms, ammunition, equipments, instruments, clothing or necessaries; and, if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof, and the said deficiency, if any; and the commanding officer of the unit to which the person belongs shall enter in the court-martial book of the unit a record of the declaration.

(2) If the person declared absent does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.

**Provost-  
marshal.**

63. For the prompt and instant repression of irregularities and offences committed in the field or on the march, provost-marshals may be appointed by the Air Officer Commanding His Majesty's Air Forces in India; and the powers and duties of such provost-marshals shall be regulated according to the established custom of war and the rules of the service.

**Duties and  
powers.**

64. The duties of a provost-marshal so appointed are to take charge of persons in air force custody, to preserve good order and discipline and to prevent breaches thereof by persons subject to this Act.

He may at any time arrest and detain for trial any person subject to this Act who commits an offence and may also carry into effect any punishments to be inflicted in pursuance of the sentence of a court-martial.

## CHAPTER VI.

### CONSTITUTION, JURISDICTION AND POWERS OF COURTS-MARTIAL.

**Kinds of  
courts-  
martial.**

65. For the purposes of this Act there shall be three kinds of courts-martial, that is to say,—

- (1) general courts-martial;
- (2) district courts-martial; and
- (3) field general courts-martial.

**Power to  
convene  
general  
courts-  
martial.**

66. A general court-martial may be convened by the <sup>2</sup>[Central Government], or by any officer empowered in this behalf by warrant of the <sup>2</sup>[Central Government].

<sup>1</sup> Subs. by the A.O. 1937 for "the Govt.".

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in C.".

*(Chapter VI.—Constitution, Jurisdiction and Powers of Courts-martial.)*

67. A district court-martial may be convened by any authority having Power to convene district courts-martial, power to convene a general court-martial, or by any officer empowered in this behalf by warrant of any such authority.
68. A warrant issued under section 66 or section 67 may contain such Limitation of powers of convening authorities, restrictions, reservations or conditions as the authority issuing it may think fit.
69. The following authorities shall have power to convene a field general court-martial, that is to say,—
- (a) an authority empowered in this behalf by an order of the <sup>1</sup>[Central Government];
  - (b) on active service, the commanding officer of the forces in the field, or any officer empowered by him in this behalf;
  - (c) the commanding officer of any detached portion of the Indian Air Force on active service, when, in his opinion, it is not practicable, with due regard to discipline or the exigencies of the service, that an offence should be tried by a general court-martial, and circumstances prevent a reference to higher authority.
70. A general court-martial shall consist of not less than five officers<sup>1</sup> Composition of general courts-martial, each of whom must have held a commission during not less than three whole years and of whom not less than four must be of a rank not below that of a flight lieutenant.
71. A district court-martial shall consist of not less than three officers. Composition of district courts-martial,
72. A field general court-martial shall consist of not less than three officers. Composition of field general courts-martial,
73. (1) If a court-martial after the commencement of a trial is reduced below the smallest number of officers of which it is by this Act required to consist, it shall be dissolved. Dissolution of courts-martial.
- (2) If, on account of the illness of the accused before the finding, it is impossible to continue the trial, a court-martial shall be dissolved
- (3) Where a court-martial is dissolved under this section, the accused may be tried again.
74. Save as otherwise provided by or under this Act, courts-martial shall have— Jurisdiction and powers of courts-martial generally.
- (a) jurisdiction to try and to punish all air force offences, and all civil offences committed by persons subject to this Act;
  - (b) exclusive jurisdiction to try all air force offences which are not also civil offences; and
  - (c) exclusive power to award the punishments specified in this Act.

---

<sup>1</sup> Subs. by the A.O. 1987 for "G. G. in C.",



(Chapter II—*Constitution, Jurisdiction and Powers of Courts martial*)

**Jurisdiction and powers of general and field general courts-martial**

75 A general or field general court-martial shall have power to try any person subject to this Act for any offence made punishable therein and to impose any sentence authorised by this Act.

**Jurisdiction and powers of district courts-martial**

76 A district court-martial shall have power to try any person subject to this Act for any offence made punishable therein and to impose any sentence authorised by this Act other than a sentence of imprisonment for a term exceeding two years.

**Prohibition of second trial**

77 When a person subject to this Act has been acquitted or convicted of an offence committed or by a court-martial or by a criminal court or by a court-martial or by a criminal court under section 25 he shall not be liable to be tried again for the same offence by a court-martial.

**Limitation of trial.**

78 A court-martial of any person subject to this Act for an offence committed after the 7th day of December 1911 in which such person was a prisoner of war or a prisoner of a State or a person of any description or a person of any description after the expiration of a period of time exceeding six months or a period of time specified by the person in question as a prisoner of war or a prisoner of a State or a person of any description (other than a person of any description) from the date of such offence or such a period of time or description (other than a person of any description) shall be commenced at a place in question in connection with the commission of the offence or such a period of time or description for not less than three years with any person of any description as regular forces.

For the purposes of this section "mutiny" means any of the offences specified in section 35<sup>1</sup> [and "enclave territory" means any area of the presence therein of the person in question under the sovereignty or administered by or in the occupation of a State at that time at war with His Majesty].

**Place of trial.**

79 Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

**Order in case of concurrent jurisdiction of criminal court and court-martial.**

80 When a criminal court and a court-martial have each jurisdiction in respect of a civil offence it shall be in the discretion of the prescribed authority to decide before which court the proceedings shall be instituted and if that authority decides that they shall be instituted before a court-martial so direct that the accused person shall be detained in one custody.

**Power of criminal court to require delivery of offender.**

81 (1) When a criminal court having jurisdiction is of opinion that proceedings ought to be instituted before itself in respect of any civil offence it may by written notice, require the prescribed air force authority at the option of such authority either to deliver over the offender to the nearest

<sup>1</sup> Ins. by the Indian Army and Indian Air Force (Amendment) Ordinance 1945 (42 of 1945), s. 3 (w.e.f. 7.12.1941)

<sup>2</sup> Subs. by s. 3, *ibid* for "expiration of three years".

(Chapter VI.—*Constitution, Jurisdiction and Powers of Courts-martial.*  
Chapter VII.—*Procedure of Courts-martial.*)

Magistrate to be proceeded against according to law, or to postpone proceedings pending a reference to the <sup>1</sup>[Central Government].

(2) In every such case the said authority shall either deliver over the offender in compliance with the requisition or shall forthwith refer the question as to the court before which the proceedings are to be instituted for the determination of the <sup>1</sup>[Central Government], whose order upon such reference shall be final.

X of 1897.  
V of 1898

82. (1) Notwithstanding anything contained in section 26 of the General Clauses Act, 1897, or in section 403 of the Code of Criminal Procedure, 1898, a person convicted or acquitted by a court-martial may be afterwards tried by a criminal court for the same offence or on the same facts.

Trial by court-martial no bar to subsequent trial by criminal court.

(2) If a person sentenced by a court-martial in pursuance of this Act to punishment for an offence is afterwards tried by a criminal court for the same offence or on the same facts, that court shall, in awarding punishment, have regard to the air force punishment he may already have undergone

## CHAPTER VII.

### PROCEDURE OF COURTS-MARTIAL.

83. At every court-martial the senior member shall sit as president. President.

84 Every general court-martial shall, and every district court-martial may, be attended by a judge advocate, who shall be either an officer belonging to the department of the Judge Advocate General in India, or, if no such officer is available, a fit person appointed by the convening officer. Judge Advocate.

85. (1) At all trials by courts-martial, as soon as the court is assembled the names of the president and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court. Challenges.

(2) If the accused objects to any such officer, his objection, and also the reply thereto of the officer objected to, shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer, decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner by another officer, subject to the same right of the accused to object.

<sup>1</sup> Subs. by the A.O. 1897 for "G. G. in C.".

*(Chapter VII.—Procedure of Courts-martial.)*

(4) When no challenge is made, or when challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

**Voting of members.**

86. (1) Every decision of a court-martial shall be passed by an absolute majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the accused:

Provided that no sentence of death shall be passed without the concurrence of two-thirds at the least of the members of the court.

(2) In matters other than a challenge or the finding or sentence, the president shall have a casting vote.

**Oaths of president and members.**

87. An oath or affirmation in the prescribed form shall be administered to every member of every court-martial and to the judge advocate at the beginning of the trial.

**Oaths of witnesses.**

88. Every person giving evidence at a court-martial shall be examined on oath or affirmation, and shall be duly sworn or affirmed in the prescribed form.

**The summoning of witnesses and production of documents.**

89. (1) The convening officer, the president of the court, the judge advocate, or the commanding officer of the accused person, may, by summons under his hand, require the attendance before the court, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing.

(2) In the case of a witness amenable to air force <sup>1</sup>[, naval] or military authority, the summons shall be sent to the officer commanding the corps <sup>1</sup>[ship,] unit, department or detachment to which he belongs, and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be or reside, and such Magistrate shall give effect to the summons as if the witness were required in the court of such Magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

(5) Nothing in this section shall be deemed to affect the Indian Evidence Act, 1872, sections 123 and 124, or to apply to any document in the custody of the postal or telegraph authorities.

(6) If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Session, wanted for the purpose of any court-martial, such Magistrate or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such Magistrate or Court may direct.

<sup>1</sup> Ins. by the Amending Act, 1934 (25 of 1934), s. 2 and Sch.

## (Chapter VII.—Procedure of Courts-martial.)

(7) If any such document is, in the opinion of any other Magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of any such District Magistrate, Chief Presidency Magistrate or Court.

90. (1) Whenever, in the course of a trial by court-martial, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Judge Advocate General in order that a commission to take the evidence of such witness may be issued. Commissions to obtain evidence.

(2) The Judge Advocate General may then, if he thinks necessary, issue a commission to any Presidency Magistrate, District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(3) When the witness resides in <sup>1</sup>[any Indian State or tribal area] in which there is an official representing <sup>2</sup>[the Central Government \* \* \*], the commission may be issued to such official.

(4) The Magistrate or official to whom the commission is issued, or if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in trials of warrant-cases under the Code of Criminal Procedure, 1898.

V of 1898.

(5) Where the commission is issued to such official as is mentioned in sub-section (3), he may delegate his powers and duties under the commission to any official subordinate to him whose powers are not less than those of a Magistrate of the first class in <sup>4</sup>[the Provinces].

(6) When the witness resides out of India, the commission may be issued to any <sup>5</sup>[Indian Consular Officer or other Indian] official competent to administer an oath or affirmation in the place where such witness resides.

(7) The prosecutor and the accused person in any case in which a commission is issued may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate or official to whom the commission is issued shall examine the witness upon such interrogatories.

<sup>1</sup> Subs. by the A.O. 1937 for "the territories of any prince or chief in India".

<sup>2</sup> Subs. by the A.O. 1937 for "the British Indian Govt."

<sup>3</sup> The words "or the Crown Representative" rep. by the A.O. 1948.

<sup>4</sup> Subs. by the A.O. 1948 for "British India".

<sup>5</sup> Subs. by the A.O. 1948 for "British Consular officer, British Magistrate or other British".

*(Chapter VII.—Procedure of Courts-martial.)*

(8) The prosecutor and the accused person may appear before such Magistrate or official by plenary or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine (as the case may be) the said witness.

(9) After any commission issued under this section has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the Judge Advocate General.

(10) On receipt of a commission and deposition returned under subsection (9), the Judge Advocate General shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the accused person; and the commission, the return thereto and the deposition shall be open to the inspection of the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(11) In every case in which a commission is issued under this section the trial may be adjourned for a specified time reasonably sufficient for the execution and return of the commission.

*Explanation*—In this section, the expression "Judge Advocate General" means the Judge Advocate General in India and includes a Deputy Judge Advocate General.

Conviction of one offence permissible on charge of another.

91 (1) A person charged before a court-martial with desertion may be found guilty of attempting to desert or of being absent without leave

(2) A person charged before a court-martial with attempting to desert may be found guilty <sup>1</sup> \* \* of being absent without leave

(3) A person charged before a court-martial with using criminal force may be found guilty of assault.

(4) A person charged before a court-martial with using threatening language may be found guilty of using insubordinate language

(5) A person charged before a court-martial with any of the offences specified in clause (a), clause (b), clause (d) or clause (e) of section 44 may be found guilty of any other of these offences with which he might have been charged.

(6) A person charged before a court-martial with an offence punishable under section 58 may be found guilty of any other offence of which he might have been found guilty if the provisions of the Code of Criminal Procedure, 1898, were applicable

V of 1898.

(7) A person charged before a court-martial with any other offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

<sup>1</sup> The words "of desertion or" rep. by the Indian Army and Indian Air Force (Amendment) Act, 1948 (21 of 1948), s. 7.

*(Chapter VII.—Procedure of Courts-martial.)*

(8) A person charged before a court-martial with any offence under this Act may be found guilty of having attempted to commit or of abetment of that offence although the attempt or abetment is not separately charged.

92. The Indian Evidence Act, 1872, shall, subject to the provisions of this Act, apply to all proceedings before a court-martial. General rule as to evidence.

93. A court-martial may take judicial notice of any matter within the general, naval, military or air force knowledge of the members. Judicial notice.

94. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in [the service of the Crown] shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown. Presumption as to signatures.

95. Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given. The enrolment of such person may be proved by the production of a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper. Enrolment paper as evidence.

96. (1) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any portion of His Majesty's Forces, or respecting the circumstance of any person not having served in, or belonged to, any portion of His Majesty's Forces, if purporting to be signed by or on behalf of the <sup>2</sup>[Central Government] or the Commander-in-Chief in India or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document. Presumption as to certain documents.

(2) An Army List, <sup>3</sup>[Navy List,] Air Force List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers or warrant officers therein mentioned, and of any appointment held by such officers or warrant officers and of the corps, <sup>3</sup>[ship,] unit, battalion, arm, branch or department of the service to which such officers or warrant officers belong.

(3) Where a record is made in any service book in pursuance of this Act or of any rules made thereunder or otherwise in pursuance of air force duty, and purports to be signed by the commanding officer or by the officer whose duty it is to make such record, such record shall be evidence of the facts thereby stated.

(4) A copy of any record in any service book purporting to be certified to be a true copy by the officer having the custody of such book shall be evidence of such record.

(5) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered

<sup>1</sup> Subs. by the A.O. 1937 for "the civil, military or air force service of Govt.".

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>3</sup> Ins. by the Amending Act, 1934 (25 of 1934), s. 2 and Sch.

*(Chapter VII.—Procedure of Courts-martial.)*

himself into the custody of, or has been apprehended by, a provost-marshal, Assistant provost-marshal or other officer, or any portion of His Majesty's Forces, a certificate purporting to be signed by such provost-marshal, assistant provost-marshal or other officer, or by the commanding officer of that portion of His Majesty's Forces and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters so stated.

(6) When any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of, or has been apprehended by a police-officer not below the rank of an officer in charge of a police-station, a certificate purporting to be signed by such police-officer and stating the fact, date and place of such surrender or apprehension, shall be evidence of the matters stated.

(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report may be used as evidence in any proceeding under this Act.

**Reference by  
accused to  
Government  
officer.**

97. (1) If at any trial for desertion, absence without leave, overstaying leave or not rejoining when warned for service, the person tried states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in [the service of the Crown], or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect as if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply, or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another court-martial.

**Evidence of  
previous  
convictions  
and service  
character.**

98. (1) When any person subject to this Act has been convicted by a court-martial of any offence such court-martial may inquire into, and receive and record evidence of, any previous convictions of such person, either by a court-martial established under this Act or any other enactment or by a criminal court, and may further inquire into and record the service character of such person.

(2) Evidence received under this section may be either oral or in the shape of entries in, or certified extracts from, court-martial books or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or service character will be received.

<sup>1</sup> Subp. by the A.O. 1937 for "the civil, military or air force service of Govt."

(Chapter VII.—*Procedure of Courts-martial.* Chapter VIII.—*Confirmation, Revision, Pardon and Remission of Sentences.*)

99. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a court-martial during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Order for custody and disposal of property pending trial in certain cases.

## CHAPTER VIII.

### CONFIRMATION, REVISION, PARDON AND REMISSION OF SENTENCES.

100. No finding or sentence of a general or district court-martial shall be valid except so far as it may be confirmed as provided by this Act.

Finding and sentence invalid without confirmation.

101. The findings and sentences of general courts-martial may be confirmed by the <sup>1</sup>[Central Government] or by any officer empowered in this behalf by warrant of the <sup>1</sup>[Central Government].

Power to confirm finding and sentence of general court-martial.

102. The findings and sentences of district courts-martial may be confirmed by any authority having power to convene a general court-martial or by any officer empowered in this behalf by warrant of any such authority.

Power to confirm finding and sentence of district court-martial.

103. A warrant issued under section 101 or section 102 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

Limitation of powers of confirming authorities.

104. (1) Save as provided in sub-sections (2) and (3), a finding and sentence of a field general court-martial shall not require to be confirmed, and may be carried out forthwith.

Confirmation of finding and sentence of field general court-martial.

(2) The finding and sentence of a field general court-martial shall require to be confirmed—

- (a) in the case of the trial of an officer,
- (b) in the case of a sentence of death or of imprisonment for a term exceeding two years, and
- (c) in any other case if so ordered by the convening authority.

(3) Such finding and sentence may be confirmed by the convening authority or, if the convening authority so directs, by an authority superior to the convening authority.



*(Chapter VIII.—Confirmation, Revision, Pardon and Remission of Sentences.)*

**Power of confirming authority to mitigate, remit or commute sentences.**

105. Subject to such restrictions as may be contained in any warrant issued under section 101 or section 102, a confirming authority may, if it confirms the sentence of a court-martial, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishments lower in the scale laid down in section 19.

**Confirmation of finding and sentence on board ship.**

106. When any person subject to this Act is tried and sentenced by court-martial while on board ship, the finding and sentence so far as not confirmed and executed on board ship may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

**Revision of finding or sentence.**

107. (1) Any finding or sentence of a court-martial which requires confirmation may be once revised by order of the confirming authority; and on such revision, the court, if so directed by the confirming authority, may take additional evidence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a general court-martial, it still consists of five officers, or, if a district court-martial, of three officers.

**Substitution of a valid finding or sentence for an invalid finding or sentence.**

<sup>1</sup>[108 (1) Where a finding of guilty by a court-martial, which has been confirmed, or which does not require confirmation, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 110, to commute the punishment awarded by the sentence, if the finding had been valid, may substitute a new finding, if the new finding could have been validly made by the court-martial on the charge and if it appears that the court-martial must have been satisfied of the facts establishing the offence specified or involved in the new finding, and may pass a sentence for the said offence.

(2) Where a sentence passed by a court-martial, which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding substituted under sub-section (1), is found for any reason to be invalid, the authority which would have had power under section 110 to commute the punishment awarded by the sentence if it had been valid may pass a valid sentence.

(3) The punishment awarded by a sentence passed under sub-section (1) or sub-section (2) shall not be higher in the scale of punishments than, or in excess of the punishment awarded by the sentence for which a new sentence is substituted under this section.]

---

<sup>1</sup> Subs. by the Indian Army and Indian Air Force (Amendment) Act, 1948 (21 of 1948), s. 8.

(Chapter VIII.—Confirmation, Revision, Pardon and Remission of Sentences.)

109. (1) Whenever, in the course of a trial by court-martial, it appears to the court that the person charged is of unsound mind and consequently incapable of making his defence, or that such person committed the act alleged, but was by reason of unsoundness of mind incapable of knowing the nature of the act or that it was wrong or contrary to law the court shall record a finding accordingly, and the president of the court shall forthwith report the case to the confirming authority, or, in the case of a field general court-martial, to the prescribed officer.

Provision  
where  
accused is  
a lunatic.

(2) A confirming authority to whom a case is reported under sub-section (1) may, if it does not confirm the finding, take steps to have the accused person tried by the same or another court-martial for the offence with which he was originally charged.

(3) A prescribed officer to whom a case is reported under sub-section (1) and a confirming authority confirming a finding in any case so reported to it shall order the accused person to be kept in custody in the prescribed manner, and where the confirming authority is not itself the <sup>1</sup>[Central Government], shall report the case for the orders of the <sup>1</sup>[Central Government].

(4) On receipt of a report under sub-section (1) or sub-section (3), the <sup>1</sup>[Central Government] may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

(5) Where an accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention the prescribed officer may—

(a) if such person is in custody under sub-section (3), on the report of a medical officer that he is capable of making his defence, or

(b) if such person is detained under sub-section (4), on a certificate such as is referred to in section 473 of the Code of Criminal Procedure, 1898,

of 1898

take steps to have such person tried by the same or another court-martial for the offence with which he was originally charged or, provided that the offence is a civil offence, by a criminal court.

(6) A copy of every order made by the prescribed officer under sub-section (5) shall forthwith be sent to the <sup>1</sup>[Central Government].

110. (1) When any person subject to this Act has been convicted by a court-martial of any offence, the <sup>1</sup>[Central Government] or the prescribed officer may—

Pardons and  
remissions.

(a) either without conditions or upon any conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded: or

<sup>1</sup> Subs. by the A.O. 1987 for "G. G. in C."

*(Chapter VIII.—Confirmation, Revision, Pardon and Remission of Sentences. Chapter IX.—Execution of Sentences and Disposal of Property.)*

(b) mitigate the punishment awarded, or commute such punishment for any less punishment or punishments mentioned in this Act.

(2) If any condition on which a person has been pardoned or a punishment has been remitted is, in the opinion of the authority which granted the pardon or remitted the punishment, not fulfilled, such authority may cancel the pardon or remission, and thereupon the sentence of the court shall be carried into effect as if such pardon had not been granted or such punishment had not been remitted:

Provided that in the case of a person sentenced to imprisonment, such person shall undergo only the unexpired portion of his sentence.

(3) When under the provisions of section 23 a non-commissioned officer is deemed to be reduced to the ranks, such reduction shall, for the purposes of this section, be treated as a punishment awarded by sentence of a court-martial.

## CHAPTER IX.

### EXECUTION OF SENTENCES AND DISPOSAL OF PROPERTY.

**Sentence of death.**

111. In awarding a sentence of death a court-martial shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

**Commencement of sentence of imprisonment.**

112. Whenever any person is sentenced under this Act to imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the president

**Execution of sentence of imprisonment.**

<sup>1</sup>[113. Whenever any sentence of imprisonment is passed under this Act, or whenever any sentence so passed is commuted to imprisonment, the confirming officer, or, in the case of a sentence which does not require confirmation, the Court or in either case such officer as may be prescribed may direct either that the sentence shall be carried out by confinement in a civil prison or by confinement in a military or air force prison, and the commanding officer of the person under sentence or such other officer as may be prescribed, shall forward a warrant in the prescribed form to the officer in charge of the prison in which the person under sentence is to be confined, and shall forward him to such prison with the warrant:

Provided that in the case of a sentence of imprisonment for a period not exceeding three months, in lieu of a direction that the sentence shall be carried out by confinement in a civil, military or air force prison, a

<sup>1</sup> Subs. by the Indian Army and Air Force (Military Prisons and Detention Barracks) Act, 1948 (14 of 1948), s. 5.

## (Chapter IX —Execution of Sentences and Disposal of Property)

direction may be made that the sentence shall be carried out by confinement in an force custody

Provided further that on active service a sentence of imprisonment may be carried out by confinement in such place as the officer commanding the forces in the field may from time to time appoint ]

114 Whenever, in the opinion of the Air Officer Commanding His Majesty's Air Forces in India, any sentence or portion of a sentence of imprisonment cannot, for special reasons, conveniently be carried out in accordance with the provisions of section 113, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

Execution of sentence of imprisonment in special cases.

115 When any sentence of detention is passed under this Act or when any sentence so passed is commuted to detention, the punishment shall be carried out by detaining the offender in any military or air force detention barracks, detention cells or other military or air force custody

Execution of sentence of detention.

116 Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil, military or air force prison, a warrant in accordance with such order shall be forwarded by the prescribed officer to the officer-in-charge of the prison in which such person is confined ]

Communication of certain orders to prison officers.

117 Where a sentence of transportation is imposed by court-martial under section 58 the offender, until he is transported shall be dealt with in the same manner as if he had been sentenced to rigorous imprisonment, and shall be deemed to have been undergoing his sentence of transportation during the term of his imprisonment

Offenders sentenced to transportation how dealt with until transported.

118 When a sentence of fine is imposed by a court-martial under section 58 whether the trial was held within [the Provinces] or not, a copy of such sentence, signed and certified by the president of the court or the officer holding the trial, as the case may be, may be sent to any Magistrate in [the Provinces], and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898, for the levy of fines as if it was a sentence of fine imposed by such Magistrate

Execution of sentence of fine

119 (1) After the conclusion of a trial before any court-martial, the court or the authority confirming its finding or sentence or any authority superior to such authority, or in the case of a finding or sentence which does not require confirmation, the officer commanding the unit within which the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document

Order for disposal of property regarding which offence committed.

<sup>1</sup> Subs. by the Indian Army and Indian Air Force (Amendment) Act, 1943 (21 of 1943), s. 9.

<sup>2</sup> Subs. by the A.O. 1948 for "British India".

## (Chapter IX—Execution of Sentences and Disposal of Property)

produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(2) Where any order has been made under sub-section (1) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within [the Provinces] or not, be sent to a Magistrate in any presidency town or district in which such property for the time being is, and such Magistrate shall thereupon cause the order to be carried into effect as if it was an order passed by such Magistrate under the provisions of the Code of Criminal Procedure, 1898. **V of 1898.**

*Explanation*—In this section the term 'property' includes in the case of property regarding which an offence appears to have been committed, not only such property as has been actually in the possession or under the control of any party but also any property into or for which the same may have been converted or exchanged and any thing acquired by such conversion or exchange whether immediately or otherwise.

**Establishment and regulation of air force prisons and detention barracks.**

¶119A (7) The Central Government may set apart any building or part of a building or any place under its control as an air force prison or detention barracks for the confinement of persons sentenced to imprisonment or detention under this Act.

(2) The Central Government may by rules provide

- (a) for the government management and regulation of such an air force prisons and detention barracks,
- (b) for the appointment and removal and powers of inspectors, visitors, governors and officers thereof,
- (c) for the labour of prisoners and persons undergoing detention therein and for enabling such prisoners or persons to earn by special industry and good conduct a remission of a portion of their sentence, and
- (d) for the safe custody of such prisoners or persons and the maintenance of discipline among them and the punishment by corporal correction, restraint or otherwise, of offences committed by them.

Provided that such rules shall not authorise corporal punishment to be inflicted for any offence nor render the imprisonment or detention more severe than it is under the law for the time being in force relating to civil prisons in [the Provinces]

(3) Rules made under this section may provide for the application to air force prisons or detention barracks of any of the provisions of the Prisons Act, 1894, relating to the duties of officers of prisons and the punishment of persons not prisoners] **IX of 1894.**

<sup>1</sup> Subs. by the A.O. 1948 for "British Indian".

<sup>2</sup> Ins. by the Indian Army and Air Force (Military Prisons and Detention Barracks) Act, 1948 (14 of 1948), s. 6

## (Chapter X.—Special Rules relating to Persons and Property)

## CHAPTER X

## SPECIAL RULES RELATING TO PERSONS AND PROPERTY.

120 (1) If an officer of the Indian Air Force thinks himself wronged by his commanding officer, or other superior officer, and on due application made to his commanding officer does not receive the redress to which he may consider himself entitled, he may complain to the [Central Government] in order to obtain justice

Complaints against superior officers and airmen.

(2) If any airman thinks himself wronged in any matter by any officer other than the officer under whose command or orders he is serving, or by any airman, he may complain thereof to the officer under whose command or orders he is serving, and if he thinks himself wronged by the officer under whose command or orders he is serving, either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to his commanding officer and if he thinks himself wronged by his commanding officer either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to the prescribed officer, and every officer to whom a complaint is made in pursuance of this section shall cause such complaint to be inquired into, and shall, if on inquiry he is satisfied of the justice of the complaint so made, take such steps as may be necessary for giving full redress to the complainant in respect of the matter complained of

121 (1) No president or member of a court-martial, no judge advocate, no party to any proceeding before a court-martial or his legal practitioner or agent, and no witness acting in obedience to a summons to attend a court-martial, shall, while proceeding to, attending on or returning from a court-martial, be liable to arrest under civil or revenue process

Privileges of persons attending courts-martial.

(2) If any such person is arrested under any such process, he may be discharged by order of the court-martial

122 (1) No officer, or person enrolled in the Indian Air Force shall be liable to be arrested for debt under any process issued by or by the authority of, any civil or revenue court or revenue-officer.

Exemption from arrest for debt.

(2) The judge of any such court may examine into any complaint made by such person or his superior officer of the arrest of such person contrary to the provisions of this section, and may by warrant under his hand, discharge the person, and award reasonable costs to the complainant, who may recover those costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining the process.

(3) For the recovery of such costs no fee shall be payable to the court by the complainant.

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C".

*(Chapter X.—Special Rules relating to Persons and Property.)*

**Property  
exempted  
from attach-  
ment.**

123. Neither the arms, clothes, equipment, accoutrements or necessities of any person subject to this Act, nor any animal used by him for the discharge of his duty, shall be seized, nor shall the pay and allowances of any such person or any part thereof be attached, by direction of any civil or revenue court or any revenue-officer, in satisfaction of any decree or order enforceable against him.

**Application  
to reservists.**

124. Every person belonging to the Indian Air Force Reserve shall, when called out for or engaged upon or returning from training or service, be entitled to all the privileges accorded by sections 122 and 123 to a person subject to this Act.

**Priority of  
hearing by  
courts of  
cases in  
which  
persons  
subject to  
this Act are  
concerned.**

125. (1) On the presentation to any court by or on behalf of any person subject to this Act of a certificate, from the proper air force authority, of leave of absence having been granted to or applied for by him for the purpose of prosecuting or defending any suit or other proceeding in such court, the court shall, on the application of such person, arrange, so far as may be possible, for the hearing and final disposal of such suit or other proceeding within the period of the leave so granted or applied for.

(2) The certificate from the proper air force authority shall state the first and last day of the leave or intended leave, and set forth a description of the case with respect to which the leave was granted or applied for.

(3) No fee shall be payable to the court in respect of the presentation of any such certificate, or in respect of any application by or on behalf of any such person for priority for the hearing of his case.

(4) Where the court is unable to arrange for the hearing and final disposal of the suit or other proceeding within the period of such leave or intended leave as aforesaid, it shall record its reasons for having been unable to do so, and shall cause a copy thereof to be furnished to such person on his application without any payment whatever by him in respect either of the application for such copy or of the copy itself.

(5) If in any case a question arises as to the proper air force authority qualified to grant such certificate as aforesaid, such question shall be at once referred by the court to an officer commanding a unit, whose decision shall be final.

**Property of  
deceased  
persons and  
deserters.**

126. The following <sup>1</sup>[provisions] are enacted respecting the disposal of the property of every person subject to this Act <sup>2</sup>[not being an officer or warrant officer of the Indian Air Force], who dies or deserts:—

(1) The commanding officer of the unit to which the deceased person or deserter belonged shall secure all the moveable property belonging to the deceased or deserter that is in camp or quarters, and cause an inventory thereof to be made, and draw any pay and allowances due to such person.

<sup>1</sup> Subs. by the Indian Army and the Indian Air Force (Amendment) Act, 1948 (17 of 1948), s. 4, for "rules".

<sup>2</sup> Ins., *ibid.*

## (Chapter X.—Special Rules relating to Persons and Property.)

- <sup>1</sup>[(2) In the case of a deceased person who has left in a bank (including any post office savings bank, co-operative bank or society or any other institution receiving deposits in money, however named) a deposit not exceeding one thousand rupees, the commanding officer may if he thinks fit require the agent manager or other proper officer of such bank or other institution to pay the deposit to him forthwith, notwithstanding anything in any rules of the bank or the other institution and when any money has been paid by such bank or other institution in compliance with such requisition, no person shall have any claim against the bank or the other institution in respect of such money]
- (3) In the case of a deceased person whose representative is on the spot and has given security for the payment of the service or other debts in camp or quarters (if any) of the deceased, the commanding officer shall deliver over any property received under clauses (1) and (2) to that representative.
- (4) In the case of a deceased person whose estate is not dealt with under clause (3), and in the case of any deserter, the commanding officer shall cause the movable property to be sold by public auction, <sup>2</sup>and may convert into money any cash certificates (including post office cash certificates, defence savings certificates and national savings certificates) and shall pay the service and other debts in camp or quarters (if any), and, in the case of a deceased person, the expenses of his funeral ceremonies, from the proceeds of the sale <sup>3</sup>[or conversion] and from any pay and allowances drawn under clause (1) and from the amount of the deposit (if any) received under clause (2)
- (5) The surplus, if any, shall, in the case of a deceased person, be paid to his representative (if any), or, in the event of no claim to such surplus being established within twelve months after the death, be remitted to the prescribed person
- (6) In the case of a deserter, the surplus (if any), shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to His Majesty, unless the deserter shall in the meantime have surrendered or been apprehended

3\*

\*

\*

\*

\*

<sup>1</sup> Subs. by the Indian Army and the Indian Air Force (Amendment) Act, 1948 (17 of 1948), s. 4.

<sup>2</sup> Ins., *ibid.*

<sup>3</sup> Rule (7) which had been ins. by s. 2 of the Indian Air Force (Amendment) Act, 1945 (8 of 1945) was rep. by Act 17 of 1948, s. 4.



## Chapter X—Special Rules relating to Persons and Property.)

<sup>1</sup>[(7)] The decision of the commanding officer <sup>2</sup>\* \* \* as to what are the service and other debts in camp or quarters of a deceased person <sup>3</sup>[or deserter] and as to the amount payable therefor shall, without prejudice to any jurisdiction otherwise exercisable by a court of law, be final.]

\* \* \* \* \*

**Disposal of certain property without production of probate, etc.**

127. Property deliverable and money payable to the representative of a deceased person under section 126 may, if the total value or amount thereof does not exceed one thousand rupees, and if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate letters of administration, certificate or other such conclusive evidence of title and such delivery or payment shall be a full discharge to those ordering or making the same and to the <sup>4</sup>[Crown] from all further liability in respect of the property or money, but nothing in this section shall affect the rights of any executor or administrator or other representative, or of any creditor of a deceased person against any person to whom such delivery or payment has been made.

**Application of sections 126 and 127 to lunatics, etc.**

<sup>5</sup>[128 The provisions of sections 126 and 127 shall, so far as they can be made applicable, apply in the case of a person subject to this Act (not being an officer or warrant officer of the Indian Air Force) who notwithstanding anything contained in the Indian Lunacy Act, 1912 is ascertained in the prescribed manner to be insane, or, who, being on active service, is officially reported missing, as if he had died on the day on which his insanity is so ascertained, or, as the case may be, on the day on which he is officially reported missing

IV of 1912

Provided that in the case of a person so reported missing, no action shall be taken under clauses (2) to (5) inclusive of section 126 until such time as such person is officially presumed to be dead.]

**Property of officers of the Indian Air Force who die or desert.**

<sup>6</sup>[128A The provisions of sections 128B to 128I shall apply to the disposal of the property of the officers and warrant officers of the Indian Air Force who die or desert.]

**Powers of Committee of Adjustment.**

<sup>6</sup>[128B. (1) On the death or desertion of an officer or warrant officer of the Indian Air Force, a Committee of Adjustment appointed in this behalf in the manner prescribed (hereinafter referred to as the "Committee") shall, as soon as may be, subject to the rules made in this behalf under this Act,

<sup>1</sup> Rule (8) which had been ins. by Act 8 of 1945, s. 2 was re-numbered as (7) by the Indian Army and the Indian Air Force (Amendment) Act, 1948 (17 of 1948), s. 4.

<sup>2</sup> The words "or the Standing Committee of Adjustment, as the case may be," were rep. by Act 17 of 1948, s. 4.

<sup>3</sup> Ins., *ibid.*

<sup>4</sup> Original Explanation and Explanation (2) which had been ins. by Act 8 of 1945, s. 2 were rep. by Act 17 of 1948, s. 4.

<sup>5</sup> Subs. by the A.O. 1987 for "Secretary of State for India in Council".

<sup>6</sup> Sections 128 to 128-I subs. for the original s. 128 by s. 5 of Act 17 of 1948.

*(Chapter X.—Special Rules relating to Persons and Property.)*

(a) secure all the moveable property belonging to the deceased or deserter, that is in camp or quarters, and cause an inventory thereof to be made, and ascertain and draw the pay and allowances, if any, due to him; and

(b) ascertain the amount, and provide for the payment, of the service and other debts in camp or quarters (if any) of the deceased or deserter.

(2) In the case of a deceased officer or warrant officer whose representative, widow (if any) or next of kin has given security to the satisfaction of the Committee for the payment of the service and other debts in camp or quarters (if any) of the deceased, the Committee shall deliver any property received by it under sub-section (1) to that representative, widow or next of kin, as the case may be, and shall not further interfere in relation to the property of the deceased.

(3) In the case of a deceased officer or warrant officer, the Committee, save as may be prescribed shall if it appears to it necessary for the payment of service and other debts in camp or quarters and the expenses, if any, incurred by the Committee, and may, in any other case, collect all moneys left by the deceased in any bank (including any post office savings bank, co-operative bank or society or any other institution receiving deposits in money, however named) and for that purpose may require the agent, manager or other proper officer of such bank, society or other institution to pay the moneys to the Committee forthwith, and such agent, manager or other officer shall be bound to comply with the requisition notwithstanding anything in any rules of the bank or other institution; and when any money has been paid by a bank or other institution in compliance with the requisition under this sub-section, no person shall have a claim against the bank or other institution in respect of such money.

(4) In the case of a deceased officer or warrant officer whose estate has not been dealt with under sub-section (2) and in the case of a deserter the Committee, subject to any rules made in this behalf under this Act, shall, for the purpose of paying the service and other debts in camp or quarters, and may, in any other case, sell or convert into money the moveable property of the deceased or deserter.

(5) The Committee shall, out of the moneys referred to in sub-sections (3) and (4), pay the service and other debts in camp or quarters (if any) of the deceased or deserter.

(6) In the case of a deceased officer or warrant officer, the surplus (if any) shall be remitted to the prescribed person.

(7) In the case of an officer or warrant officer who is a deserter, the surplus (if any) shall be forthwith remitted to the prescribed person and shall, on the expiry of three years from the date of his desertion, be forfeited to the Central Government unless the deserter shall in the meantime have surrendered or been apprehended:

*(Chapter X.—Special Rules relating to Persons and Property.)*

Provided that the prescribed person may pay the whole or such part of the surplus as he may deem proper to the wife or children or other dependents of the officer or warrant officer.

(8) If in any case a doubt or difference arises as to what are the service and other debts in camp or quarters of a deceased officer or deserter or as to the amount payable therefor, the decision of the prescribed person shall be final and shall be binding on all persons for all purposes.

(9) For the purpose of the exercise of its duties under this section, the Committee shall, to the exclusion of all authorities and persons whomsoever, have the same rights and powers as if it had taken out representation to the deceased, and any receipt given by the Committee shall have effect accordingly.]

**Powers of  
Central  
Government  
to hand over  
the estate  
of a deceased  
officer to  
Administrator  
General.**

<sup>1</sup>[128C. (1) Notwithstanding anything contained in the Administrator General's Act, 1913, an Administrator General shall not interpose in any manner in relation to any property of a deceased officer or warrant officer which has been dealt with under the provisions of section 128B except in so far as he is expressly required or permitted to do so by or under the provisions contained in this Chapter. **III of 1913.**

(2) The Central Government may at any time and in such circumstances as it thinks fit direct that the estate of a deceased officer or warrant officer shall be handed over by the Committee to the Administrator General of a Province for administration and thereupon the Committee shall make over the estate to such Administrator General.

(3) Where under this section any estate is handed over to the Administrator General, he shall administer the estate in accordance with the provisions of the Administrator General's Act, 1913: **III of 1913.**

Provided that the service and other debts in camp or quarters of the deceased officer (if any) shall be paid in priority to any other debt due by him.

(4) The Administrator General shall pay the surplus, if any, remaining in his hands after discharge of all debts and charges, to the heirs of the deceased and, if no heir is traceable, shall remit such surplus to the prescribed person in the prescribed manner.

(5) The Administrator General shall not charge in respect of his duties any fee exceeding three per cent. of the gross amount coming to or remaining in his hands after payment of the service and other debts in camp or quarters.]

**Disposal of  
surplus by  
the prescribed  
person.**

<sup>1</sup>[128D. On receipt of the surplus referred to in sub-section (6) of section 128B or sub-section (4) of section 128C, the prescribed person shall proceed as follows:—

(1) If he knows of a representative of the deceased, he shall pay the surplus to that representative.

(2) If he does not know of any such representative, he shall publish every year a notice in the prescribed form and manner for six consecutive years. If no claim to the surplus is made by a

<sup>1</sup> Sections 128 to 128-L, subs. for the original s. 128 by s. 5 of Act 17 of 1948.

*(Chapter X.—Special Rules relating to Persons and Property.)*

representative of the deceased within six months after the publication of the last of such notices, the prescribed person shall deposit the surplus together with any income or accumulation of income accrued therefrom to the credit of the Central Government:

Provided that such deposit shall not bar the claim of any person to such surplus or any part thereof.]

1[128E. Where any part of the estate of a deceased officer or warrant officer consists of effects, securities or other property not converted into money, the provisions of section 128B and section 128D with respect to paying the surplus shall, save as may be prescribed, extend to the delivery, transmission or transfer of such effects, securities or property, and the prescribed person shall have the same power of converting the same into money as a representative of the deceased.]

Disposal of effects not money.

1[128F. Property deliverable and money payable to the representative of a deceased officer or warrant officer under section 128B or section 128D may, if the total amount or value thereof does not exceed five thousand rupees, and, if the prescribed person thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it or to administer the estate of the deceased, without requiring the production of any probate letters of administration, succession certificate or other such conclusive evidence of title.]

Disposal of certain property without production of probate, etc.

1[128G. Any payment of money or delivery, application, sale or other disposition of any property or money made, or purported to be made by the Committee or the prescribed person in good faith in pursuance of section 128B, section 128D, section 128E or section 128F shall be valid and shall be a full discharge to the Committee or the prescribed person, as the case may be, and to the Crown from all further liability in respect of that money or property, but nothing herein contained shall affect the right of any executor or administrator or other representative, or of any creditor of the deceased officer or warrant officer against any person to whom such payment or delivery has been made.]

Discharge of Committee, prescribed person and the Crown.

1[128H. Any property coming under section 128B or under sub-section (4) of section 128C into the hands of the Committee or the prescribed person shall not, by reason of so coming, be deemed to be assets or effects at the place in which that Committee or the prescribed person is stationed and it shall not be necessary by reason thereof that representation be taken out in respect of that property for that place.]

Property in the hands of the Committee or the prescribed person not to be assets at the place where the Committee or the prescribed person is stationed.

1[128I. After the Committee has deposited with the prescribed person the surplus of the property of any deceased officer or warrant officer under sub-section (6) of section 128B, any representative of the deceased or any Administrator General, shall, as regards any property of the deceased not collected by the Committee and not forming part of the aforesaid surplus, have the same rights and duties as if section 128B had not been enacted.]

Saving of rights of representative.

<sup>1</sup> Sections 128 to 128-L subs. for the original s. 128 by s 5 of Act 17 of 1948.

*(Chapter X.—Special Rules relating to Persons and Property.**Chapter XI.—Supplemental.)*

Application  
of sections  
128B to 128I  
to lunatics,  
etc.

<sup>1</sup>[128J. The provisions of sections 128B to 128I shall, so far as they can be made applicable, apply in the case of an officer or warrant officer of the Indian Air Force who, notwithstanding anything contained in the Indian Lunacy Act, 1912, is ascertained in the prescribed manner to be insane, or, who, being on active service, is officially reported missing, as if he had died on the day on which his insanity is so ascertained or, as the case may be, on the day on which he is officially reported missing:

IV of 1912.

Provided that in the case of an officer or warrant officer so reported missing no action shall be taken under sub-sections (2) to (5) of section 128I or under section 128C until such time as he is officially presumed to be dead.]

Appoint-  
ment of  
Standing  
Committee  
of Adjust-  
ment when  
officers die  
or desert  
while on  
active  
service.

<sup>1</sup>[128K. When an officer or warrant officer dies or deserts while on active service, the references in the foregoing provisions of this Chapter to the Committee shall be construed as references to the Standing Committee of Adjustment, if any, appointed in this behalf in the manner prescribed.]

Interpreta-  
tion.

<sup>1</sup>[128L. For the purposes of this Chapter—

(1) the expression 'service and other debts in camp or quarters' includes money due as air force debts, namely, sums due in respect of, or of any advance in respect of—

(a) quarters;

(b) mess, band, and other service accounts;

(c) air force clothing, appointments and equipments, not exceeding a sum equal to three months' pay of the deceased, and having become due within eighteen months before his death.

(2) 'representation' includes probate and letters of administration with or without the will annexed, and a succession certificate, constituting a person the executor or administrator of the estate of a deceased person or authorising him to receive or realize the assets of a deceased person;

(3) 'representative' means any person who has taken out representation but does not include an Administrator General.]

## CHAPTER XI.

## SUPPLEMENTAL.

Power to  
make rules.

129. (1) The <sup>2</sup>[Central Government] may make rules<sup>3</sup> for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

<sup>1</sup> Sections 128 to 128-L subs. for the original s. 128 by s. 5 of Act 17 of 1948.

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>3</sup> See the Indian Air Force Act Rules, published in the Gazette of India, 1933, Pt. I, pp. 374 to 434, as subsequently amended.

## (Chapter XI.—Supplemental. The Schedule.)

## 1932 : Act XX.]

## Port Haj Committees.

- (a) the discharge from the service of persons subject to this Act;
- (b) the specification of the punishments, which may be awarded as field punishments under sections 21 and 25;
- (c) the assembly and procedure of courts of inquiry, and the administration of oaths or affirmations by such courts;
- (d) the convening and constituting of courts-martial;
- (e) the adjournment, dissolution and sittings of courts-martial;
- (f) the procedure to be observed in trials by courts-martial;
- (g) the confirmation and revision of the findings and sentences of courts-martial;
- (h) the carrying into effect sentences of courts-martial;
- (i) the forms of orders to be made under the provisions of this Act relating to courts-martial and imprisonment;
- (j) the constitution of authorities to decide for what persons, to what amounts and in what manner, provision should be made for dependants under section 29, and the due carrying out of such decisions; and
- (k) any matter in this Act directed to be prescribed.

(3) All rules made under this Act shall be published in the [Official Gazette], and, on such publication, shall have effect as if enacted in this Act.

130. [Amendment of certain enactments.] Rep. by the Repealing Act, 1938 (I of 1938), s. 2. and Sch.

SCHEDULE.—[Amendments.] Rep. by the Repealing Act, 1938 (I of 1938) s. 2 and Sch.

## THE PORT HAJ COMMITTEES ACT, 1932.

### CONTENTS.

#### SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Continuance of Port Haj Committees of Calcutta and Bombay.

<sup>1</sup> Subs. by the A.O., 1937 for "Gazette of India".

## SECTIONS.

4. Composition of Port Haj Committees.
5. Power to alter composition of Port Haj Committee.
6. Constitution of Port Haj Committees in other ports.
7. Nominations, elections and co-options.
8. Term of office.
9. Formation of new Committees.
10. Rules relating to the constitution of Committees.
11. Chairmen and Vice-Chairmen.
12. Power to make rules regarding Chairmen and Vice-Chairmen.
13. Power to make by-laws regarding Chairmen and Vice-Chairmen.
14. Officers and servants of Port Haj Committees.
15. Delegation to Port Haj Committee of control over its officers and servants.
16. Payment of salaries, etc., of officers and servants.
17. Meetings of Committees and conduct of business.
18. Duties of Port Haj Committees.
19. Inspection of pilgrim ships.
20. Haj Funds.
21. Application of the Haj Fund.
22. Power to make rules for the financial control of Committees.
23. Provisions regarding rules and by-laws.
24. [Repealed.]

Act No XX of 1932.<sup>1</sup>

[1st October, 1932]

An Act to establish Committees in the principal ports of pilgrim traffic to assist Muslim pilgrims to the Hedjaz.

enacted as follows:—

Short title,  
extent and  
commence-  
ment.

**W**HEREAS it is expedient to establish Committees in the principal ports of pilgrim traffic to assist Muslim pilgrims to the Hedjaz; It is hereby

1. (1) This Act may be called the Port Haj Committees Act, 1932.

(2) It extends in the first instance to the <sup>2</sup>[Provinces of Bombay and West Bengal], but the <sup>3</sup>[Central Government] may by notification in the <sup>4</sup>[Official Gazette], extend it to any other maritime Province.

(3) This section shall come into force at once, and the remaining provisions of this Act shall come into force in any Province to which the Act extends on such date as the <sup>3</sup>[Central Government] may, by notification in the <sup>4</sup>[Official Gazette], appoint<sup>5</sup> in this behalf.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1932, Pt. V, p. 157; for Report of Select Committee, see *ibid.*, p. 169.

<sup>2</sup> Subs. by the A.O. 1948 for "Presidencies of Bombay and Bengal."

<sup>3</sup> Subs. by the A. O. 1937 for "G. G. in C."

<sup>4</sup> Subs. by the A. O. 1937 for "Gazette of India".

<sup>5</sup> Ss. 2 to 24 of this Act were brought into force in the Province of Bombay on the 25th September 1932, see Gazette of India, 1932, Pt. I, p. 984; and in the Province of West Bengal on the 30th November, 1932, see *ibid.*, p. 1182.

2. In this Act, unless there is anything repugnant in the subject or **Definitions.**  
context,—

- (a) a "pilgrim" means a Muslim proceeding on or returning from pilgrimage to the Hedjaz; and
- (b) a "pilgrim ship" means a ship conveying or about to convey pilgrims from or to any port in <sup>1</sup>[the Provinces] to or from any port in the Red Sea other than Suez.

<sup>2</sup>[3. There shall continue to be a committee called the Port Haj Committee of Calcutta and a committee called the Port Haj Committee of Bombay.] **Continuance of Port Haj Committees of Calcutta and Bombay**

4. (1) The Port Haj Committee of Calcutta shall consist of nineteen members as follows:— **Composition of Port Haj Committees,**

- (a) seven members to be nominated by the <sup>3</sup>[Central Government], of whom not more than five shall be officials;

- \*(b) two members to be elected by the elected Muslim Councillors and elected Muslim Aldermen of the Corporation of Calcutta;

- (c) six members to be elected by an electorate consisting of—

- (i) the elected Muslim members of <sup>4</sup>[the West Bengal Legislative Assembly],
- (ii) the Muslim members of <sup>5</sup>[the Central Legislature], elected <sup>6</sup>[for, or for any part of,] <sup>7</sup>[West Bengal], and
- (iii) the elected Muslim members of the <sup>7</sup>[West Bengal] Medical Council, and

- (d) four members to be co-opted by the elected members of the Committee.

(2) The Port Haj Committee of Bombay shall consist of nineteen members as follows:—

- (a) seven members to be nominated by the <sup>3</sup>[Central Government], of whom not more than five shall be officials;

- (b) two members to be elected by the elected Muslim members of the Municipal Corporation of the City of Bombay;

- (c) six members to be elected by an electorate consisting of—

<sup>1</sup> Subs. by the A.O. 1948 for "British India".

<sup>2</sup> Subs. by the A.O. 1948 for the original section.

<sup>3</sup> Subs. by the A.O. 1937 for "L.G."

<sup>4</sup> Subs. by the A.O. 1948 for the words "the Chambers of the Bengal Legislature" which had been subs. by the A.O. 1937 for the words "the Bengal Legislative Council".

<sup>5</sup> Subs. by the A.O. 1948 for the words "the Chambers of the Central Legislature" which had been subs. by the A.O. 1937 for the words "the Council of State and of the Legislative Assembly."

<sup>6</sup> Subs. by the A.O. 1937 for "by constituencies in the Presidency of".

<sup>7</sup> Subs. by the A.O. 1948 for "Bengal".

\* This clause shall be deemed to be rep. so long as West Bengal Act 8 of 1948 remains in force, see Notification No. F-8-1-148-Hajj, dated 30th April, 1948, Gazette of India, 1948, Pt. I, p. 505.



- (i) the elected Muslim members of <sup>1</sup>[the Chambers of the Bombay Legislature],
- (ii) the Muslim members of <sup>2</sup>[<sup>3</sup>\* \* \* the Central Legislature], elected <sup>4</sup>[for, or for any part of,] Bombay, and
- (iii) the elected Muslim members of the Bombay Medical Council; and
- (d) four members to be co-opted by the elected members of the Committee

\* \* \* \* \*

(4) An elected member of a Port Haj Committee need not be a member of the electorate which elects him

(5) A member of a Port Haj Committee nominated by <sup>6</sup>[the Central Government] may be nominated by virtue of office

Power to alter composition of Port Haj Committee.

<sup>7</sup>[5 The Central Government may, after previous publication, make rules altering the composition of a Port Haj Committee]

Constitution of Port Haj Committees in other ports.

6 (1) When any port, other than Calcutta <sup>8</sup>[or Bombay], situated in any Province to which this Act extends, is appointed to be a port for pilgrim traffic in pursuance of sub-section (1) of section 150 of the Indian Merchant Shipping Act 1923 the <sup>9</sup>[Central Government] may, subject to the condition of previous publication make rules providing for the composition of a Port Haj Committee for such port and shall cause the Committee to be constituted accordingly XXI of 1923.

(2) The provisions of this Act shall apply to such Committee when constituted.

Nominations, elections and co-options.

7 (1) The election and co-option of members of Port Haj Committees shall be conducted in accordance with rules to be made in this behalf by the <sup>10</sup>[Central Government].

(2) As soon as may be after the election and co-option of members of a Port Haj Committee, the <sup>10</sup>[Central Government] shall make the nominations permitted by section 4, and shall publish in the <sup>11</sup>[Official Gazette] a list of the names of all members nominated, elected and co-opted

Provided that the failure of anybody to elect or to co-opt a member shall not prevent the <sup>10</sup>[Central Government] from making nominations or from publishing the list of members as provided in this sub-section

<sup>1</sup> Subs. by the A.O. 1937 for "the Bombay Legislative Council".

<sup>2</sup> Subs. by the A.O. 1937 for "the Council of State and of the Legislative Assembly".

<sup>3</sup> The words "the Chambers of" were rep. by the A.O. 1948

<sup>4</sup> Subs. by the A.O. 1937 for "by constituencies in the Presidency of".

<sup>5</sup> Sub-section (3) as amended by the A.O. 1937 was rep. by the A.O. 1948

<sup>6</sup> Subs. by the A.O. 1937 for "a L.G.".

<sup>7</sup> Subs. by the A.O. 1937 for the original section.

<sup>8</sup> Subs. by the A.O. 1948 for "Bombay or Karachi"

<sup>9</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>10</sup> Subs. by the A.O. 1937 for "L.G."

<sup>11</sup> Subs. by the A.O. 1937 for "local official Gazette".

Provided further that the list of members of a new Committee shall not be published before the expiry of three years from the date of the publication of the list of members of the Committee which it is replacing.

8. (1) Where a member of a Port Haj Committee is nominated by virtue of his office, the person for the time being holding the office shall be a member until the <sup>1</sup>[Central Government] otherwise directs. Term of office.

(2) The term of office of other members (except members filling casual vacancies) shall be not less than three years, commencing on the day following the publication of the list of members, under sub-section (2) of section 7, and ending on the date of the publication of the list of members of the next Committee.

9. (1) At such time as the <sup>1</sup>[Central Government] may deem to be expedient before or after the expiry of the period of three years after the publication of the list of members of a Committee under sub-section (2) of section 7, the <sup>1</sup>[Central Government] shall take or cause to be taken all necessary steps for the election, co-option and nomination of members of the new Committee. Formation of new Committees.

(2) No person shall be ineligible for election, co-option or nomination to a Port Haj Committee on the ground that he is or has been a member of a Port Haj Committee.

10 The <sup>1</sup>[Central Government] may make rules —

- (a) prescribing the disqualifications which shall disqualify any person from being elected, co-opted or nominated as member of a Port Haj Committee, Rules relating to the constitution of Committees.
- (b) providing for the decision of doubts and disputes relating to the election and co-option of members;
- (c) regulating the resignation of members;
- (d) prescribing the reasons for which members may be removed, and providing for their removal;
- (e) regulating the filling of casual vacancies and the term of office of members filling casual vacancies; and
- (f) providing for any other matter which the <sup>1</sup>[Central Government] may deem to be expedient for the proper constitution of Port Haj Committees.

11. (1) After the publication of the list of members of a Port Haj Committee under sub-section (2) of section 7, the <sup>1</sup>[Central Government] shall direct the Committee to elect one of its members to be Chairman within a time to be specified in such direction. Chairmen and Vice-Chairmen.

(2) If within the time so specified the Committee fails to elect a Chairman, the <sup>1</sup>[Central Government] may appoint a member of the Committee to be Chairman of the Committee.

<sup>1</sup> Subs by the A.O. 1937 for "L.G."

(3) An elected Chairman shall not take up his office until his election has been approved by the <sup>1</sup>[Central Government].

(4) A Port Haj Committee may elect from amongst its members not more than two members to be Vice-Chairmen.

(5) The appointment or election of Chairmen and Vice Chairmen shall be notified in the <sup>2</sup>[Official Gazette].

**Power to  
make rules  
regarding  
Chairmen  
and Vice-  
Chairmen.**

12. The <sup>1</sup>[Central Government] may make rules—

- (a) prescribing the term of office of Chairmen,
- (b) prescribing the powers and duties of Chairmen;
- (c) regulating the resignation of Chairmen,
- (d) prescribing the reasons for which Chairmen and Vice-Chairmen may be removed, and providing for their removal; and
- (e) regulating the filling of casual vacancies in the office of Chairman and the term of office of persons filling such vacancies

**Power to  
make by-  
laws regard-  
ing Chair-  
men and  
Vice-Chair-  
men.**

13. A Port Haj Committee may, with the previous sanction of the <sup>1</sup>[Central Government], make by-laws—

- (a) prescribing the term of office of Vice Chairmen;
- (b) prescribing the powers and duties of Vice Chairmen and also the powers and duties of the Chairman in so far as they have not been prescribed by rules under section 12;
- (c) regulating the resignation of Vice Chairmen, and
- (d) regulating the filling of casual vacancies in the office of Vice Chairman, and the term of office of persons filling such vacancies

**Officers and  
servants of  
Port Haj  
Committees.**

14 (1) Until the expiry of a period of four years from the date of the publication of the list of members of a Port Haj Committee on its first constitution the <sup>1</sup>[Central Government] shall, in consultation with the Committee, appoint, for each Port Haj Committee a person to be Executive Officer, who shall also be Secretary to the Committee, and shall also in like manner appoint such other officers and servants as it may consider necessary for the efficient discharge of the duties of the Committee

(2) The <sup>2</sup>[Central Government] may make rules—

- (a) regulating the relations between a Port Haj Committee and its Executive Officer;
- (b) regulating the subordination of the other officers and servants of a Port Haj Committee to the Committee and to the Executive Officer;

<sup>1</sup> Subs. by the A.O. 1937 for "L.O."

<sup>2</sup> Subs. by the A.O. 1937 for "local official Gazette."

(c) determining the conditions of service of an Executive Officer and other officers and servants,

(d) prescribing the powers and duties of the Executive Officer in so far as they are not prescribed by this Act; and

(e) prescribing the powers and duties of the other officers and servants of a Port Haj Committee

(3) Rules made under sub-section (2) may authorise a Port Haj Committee to make by-laws providing for any of the matters specified in that sub-section in so far as such matters are not provided for in the rules

15 (1) Within the period of four years referred to in sub-section (1) of section 14 the <sup>1</sup>[Central Government] may, and on the expiry of that period the <sup>2</sup>[Central Government] shall, by notification in the <sup>3</sup>[Official Gazette], authorise a Port Haj Committee to appoint its Executive Officer, and to appoint such other officers and servants as the Committee may deem to be necessary for the efficient discharge of its duties

**Delegation to Port Haj Committee of control over its officers and servants.**

(2) Such authorisation may impose such restrictions and conditions as the <sup>1</sup>[Central Government] may think fit.

(3) A Port Haj Committee so authorised may make by-laws providing for any of the matters specified in sub-section (2) of section 14, and may cancel any rule made under that sub-section in so far as it applies to such Committee and its officers and servants.

16. The pay and allowances and expenses lawfully incurred in respect of an Executive Officer or other officer or servant appointed by the <sup>1</sup>[Central Government] under section 14 shall be paid by the <sup>2</sup>[Central Government] and the pay, allowances and expenses lawfully incurred in respect of an Executive Officer or other officer or servant appointed by a Committee under section 15 shall be paid by the Committee out of the funds at its disposal.

**Payment of salaries, etc. of officers and servants**

17 (1) A Port Haj Committee shall meet at least once in every month during the four months before the Haj Day and during the two months after the Haj Day, and at least once in each three months during the rest of the year.

**Meetings of Committees and conduct of business.**

(2) The number of members required to make a quorum at any meeting shall be six.

(3) All matters shall be decided by a majority of the members present, and in the event of an equality of votes the Chairman or other person presiding shall have a casting vote.

(4) A Port Haj Committee may make by-laws—

(a) regulating the convening of its meetings;

(b) regulating the conduct of business at its meetings;

(c) prescribing the registers and records which shall be maintained;

<sup>1</sup> Subs. by the A.O. 1937 for "L. G."

<sup>2</sup> Subs. by the A.O. 1937 for "local official Gazette".

<sup>3</sup> Subs. by the A.O. 1937 for "G. G. in C."

- (d) providing for the publication of its proceedings and of any other matters of interest to pilgrims; and
- (e) providing for any other matter which the Committee may deem necessary for the regulation of its meetings and its business:

Provided that the <sup>1</sup>[Central Government] may, at any time before the first meeting of a Committee after the commencement of this Act, frame instructions for the Committee on all or any of the matters specified in this sub-section, and such instructions shall be deemed to be by-laws made by the Committee under this sub-section until they are superseded by by-laws so made.

(5) Anything done or any proceeding taken by a Port Haj Committee shall not be questioned on the ground of any vacancy in the committee, or on account of any defect or irregularity not affecting the merits of the case

**Duties of  
Port Haj  
Committees.**

18. (1) The duties of a Port Haj Committee shall be —

- (a) to collect and disseminate information useful to pilgrims;
- (b) to advise and assist pilgrims during their stay at the port, while proceeding to or returning from the Hedjaz, in all matters including vaccination, inoculation, medical inspection and issue of passes and passports, and to co-operate with the local authorities concerned in such matters;
- (c) to give relief to indigent pilgrims;
- (d) to negotiate and co-operate with railways and shipping companies for the purpose of securing travelling facilities for pilgrims;
- (e) to find suitable Muslims for employment by shipping companies on pilgrim ships;
- (f) to bring the grievances of pilgrims and any irregularities or omissions on the part of a master or owner of a pilgrim ship in carrying out of the provisions of the Indian Merchant Shipping Act, 1923, to the notice of the authorities concerned, and to suggest remedies;
- (g) to authorise whenever practicable an individual pilgrim or a committee of pilgrims on board a pilgrim ship to represent the grievances of the pilgrims to the master or owner of the ship: and
- (h) such other duties in connection with the pilgrim traffic as may be entrusted to it by <sup>2</sup>[the Central Government].

XXI of  
1923.

(2) <sup>3</sup>[The Central Government] shall afford all reasonable assistance to the Port Haj Committee in the discharge of the duties imposed by this section.

**Inspection  
of pilgrim  
ships,**

19. (1) Each Port Haj Committee shall appoint one or more sub-committees composed of two of its members, whose duties shall be the inspection of pilgrim ships.

(2) Any such sub-committee when inspecting a pilgrim ship shall be accompanied by the certifying officer appointed for the port under section 151 of the Indian Merchant Shipping Act, 1923, or by the Surveyor of the ship or other person deputed by the certifying officer.

XXI of 192

<sup>1</sup> Subs. by the A.O. 1937 for "L.G."

<sup>2</sup> Subs. by the A.O. 1937 for "Govt."

<sup>3</sup> Subs. by the A.O. 1937 for "The L.G."

1932 : Act XX.]

(3) The Executive Officer of a Port Haj Committee or a sub-committee appointed under sub-section (1) may enter and inspect any pilgrim ship advertised or offering to sail from or which has returned to the port for which the Committee is constituted.

(4) A master or any officer of a pilgrim ship who fails to render every reasonable facility for such inspection shall be punishable with fine which may extend to five hundred rupees.

(5) No Magistrate other than a Presidency Magistrate or Magistrate of the first class shall take cognizance of an offence punishable under sub-section (4), and such Magistrate shall take cognizance of such offence only on written complaint by the Chairman of the Port Haj Committee concerned.

20. In each port in which there is a Port Haj Committee there shall be created a fund, to be called the Haj Fund of the port concerned, and there shall be placed to the credit thereof the following sums, in so far as they arise or have arisen in the port concerned, namely:—

(a) the interest on all deposits made by pilgrims under clause (b) of section 208A of the Indian Merchant Shipping Act, 1923;

(b) sums realised from the sale of the effects of deceased pilgrims and sums of money left by deceased pilgrims, which are unclaimed and have <sup>1</sup>[lapsed to the Crown];

(c) any fees which may be levied for the issue of visitors' passes to friends and relations of pilgrims who desire to go on board a pilgrim ship;

(d) the amount now standing to the credit of the fund known as the Indigent Pilgrims' Fund: provided that such amount shall be applied by the Committee solely for the relief of indigent pilgrims;

(e) any sums received by the Haj Fund from private sources; and

(f) any sums <sup>2</sup>[allotted by the Central or any Provincial Government] to the Haj Fund.

21. A Haj Fund of a port shall, subject to rules made under section 22, be under the control and management of the Port Haj Committee for that port, and shall be applicable to the payment of charges and expenses incidental to the objects specified in section 18, and of any other object specified by rules made under clause (c) of section 22.

22. <sup>3</sup>[The Central Government may] make rules—

- (a) providing for the custody of Haj Funds;
- (b) regulating the investment of balances of Haj Funds;
- (c) prescribing the objects to which Haj Funds shall be applicable, in addition to those prescribed in section 18;

Power to make rules for the financial control of Committees.

<sup>1</sup> Subs. by the A.O. 1937 for "lapsed to Govt."

<sup>2</sup> Subs. by the A.O. 1937 for "allotted by Govt."

<sup>3</sup> Subs. by the A.O. 1937 for "The L.G. may, subject to the control of the G. G. in C."

- (d) fixing the limits of expenditure which may be incurred by a Committee without sanction, and providing for the grant of sanction for expenditure exceeding those limits;
- (e) regulating the preparation, submission and approval of the budgets of Committees;
- (f) prescribing the accounts to be kept by Committees, and providing for the audit and publication thereof;
- (g) prescribing the returns, statements and reports to be submitted by Committees; and
- (h) generally providing for the control of Committees in respect of financial matters.

**Provisions  
regarding  
rules and  
by-laws.**

23. (1) Rules made by the <sup>1</sup>[Central Government] under this Act shall be made by notification in the <sup>2</sup>[Official Gazette] and shall be subject to the condition of previous publication.

(2) By-laws made by a Port Haj Committee shall be submitted to the <sup>1</sup>[Central Government], and shall not take effect until they have been confirmed by the <sup>1</sup>[Central Government].

(3) By-laws which have been confirmed by the <sup>1</sup>[Central Government] shall be published in the <sup>2</sup>[Official Gazette].

24. [Repeals.] *Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.*

---

## THE TEA DISTRICTS EMIGRANT LABOUR ACT, 1932.

---

### CONTENTS.

---

#### CHAPTER I.

##### PRELIMINARY.

##### SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Appointment and status of Controller and Deputy Controllers.
4. Powers of the Controller.
5. Emigrant Labour Cess.
6. Power to make rules for the collection of the Emigrant Labour Cess.

---

<sup>1</sup> Subs by the A.O. 1937 for "L.G."

<sup>2</sup> Subs. by the A.O. 1937 for "local official Gazette".

## CHAPTER II.

## REPATRIATION.

## SECTIONS.

7. General right of repatriation after three years in Assam.
8. Right to repatriation on dismissal.
9. Rights of repatriation of family of deceased emigrant labourer.
10. Right to apply for repatriation in certain circumstances.
11. Power of criminal Courts to order repatriation.
12. Incidents of the right of repatriation.
13. The discharge of an employer's duty to repatriate.
14. Postponement, waiver and forfeiture of the right.
15. Power of the Controller to enforce the provisions of this Chapter.

## CHAPTER III.

## CONTROLLED EMIGRATION AREAS.

16. Power to declare controlled emigration areas.
17. Power to grant licences to local forwarding agents.
18. Recruits in controlled emigration areas to be sent to forwarding agents' depots.
19. Assisted emigrants to be forwarded to Assam by local forwarding agents by prescribed routes.
20. Maintenance of depots along prescribed routes.
21. Power of Central Government to make rules.
22. Inspection of depots, vessels and vehicles.
23. Action where proper arrangements not made for assisted emigrants.
24. Cancellation of licences.
25. Penalty for illicit abetment of emigration.

## CHAPTER IV.

## RESTRICTED RECRUITING AREAS.

26. Power to declare restricted recruiting areas.
27. Grant of licences to recruiters.
28. Grant of certificates to garden sardars.
29. Cancellation and suspension of recruiter's licence.
30. Cancellation of garden-sardar's certificate.
31. Penalty for illicit recruitment.



## (Chapter I.—Preliminary.)

## CHAPTER V.

## SUPPLEMENTAL.

## SECTIONS.

32. Prohibition of the recruitment of children.
33. Power to detain and return sick persons.
34. Power to return person improperly recruited.
35. Power to enforce the provisions of sections 33 and 34.
36. Magistrates and medical officers who may exercise the powers of the Controller.
37. Power of Central Government to make rules.
38. Powers to extend the scope of this Act.
39. Saving for acts done in good faith under the Act.
40. Bar of jurisdiction of Civil Courts.
41. [Repealed.]

---

THE SCHEDULE.—[Repealed.]

---

Act No. XXII of 1932<sup>1</sup>

[8th October, 1932.]

## An Act to amend the law relating to emigrant labourers in the tea districts of Assam.

**W**HEREAS it is expedient to amend the law relating to emigrant labourers in the tea districts of Assam; It is hereby enacted as follows:—  
context,—

## CHAPTER I.

## PRELIMINARY.

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Tea Districts Emigrant Labour Act, 1932.

(2) It extends<sup>2</sup> to <sup>3</sup>[all the Provinces of India] including the Sonthal Parganas.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1932, Pt. V. p. 133; for Report of Select Committee, see *ibid.*, p. 179.

<sup>2</sup> This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch. and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch.

<sup>3</sup> Subs. by the A.O. 1948 for "the whole of British India."

*(Chapter I.—Preliminary.)*

(3) It shall come into force on such date<sup>1</sup> as the <sup>2</sup>[Central Government] may, by notification in the <sup>3</sup>[Official Gazette], appoint.

2. In this Act, unless there is anything repugnant in the subject or *Definitions*. context,—

(a) "tea district" means any of the following districts in the Province of Assam, namely,—

Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara,  
<sup>4</sup>[and Cachar], and the Balipara Frontier Tract;

(b) "tea estate" means an estate, situated in the tea districts, any part of which is used or is intended to be used for the cultivation or manufacture of tea or for any purpose connected therewith;

(c) "recruiting Province" means any Province other than Assam;

(d) "adult" means a person who has completed his sixteenth year, and "child" means a person who is not an adult;

(e) a "labourer" means an adult working on wages not exceeding fifty rupees a month, but does not include a clerk or domestic servant, or a mechanic, carpenter, mason, bricklayer or other artisan;

(f) an "assisted emigrant" means an adult who, after the commencement of this Act, has left his home in any recruiting Province or in any Indian State, is proceeding through any part of <sup>5</sup>[any Province of India] to any place in Assam to work as a labourer on a tea estate, and has received assistance from any person,

but does not include any person who at any time within the two preceding years has worked as a labourer on a tea estate;

(g) "assistance" means the gift or offer of any money, goods or ticket entitling to conveyance to any person as an inducement to such person to proceed to Assam to work as a labourer on a tea estate, and "assisted" and "with assistance" when used with reference to any person mean that such person has received assistance;

(h) an "emigrant labourer" means a person who has last entered Assam as an assisted emigrant and is employed on a tea estate, and includes any person who, having accompanied an assisted emigrant to Assam as a child dependent on him, has become an adult and is so employed,

but does not include any person who, at any time after his last entry into Assam and after he has become an adult has taken employment not on a tea estate;

<sup>1</sup> 1st October, 1933: see Gazette of India, 1933, Pt. I, p. 906.

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>3</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>4</sup> Subs. by the A.O. 1948 for "Cachar and Sylhet."

<sup>5</sup> Subs. by the A.O. 1948 for "British India."

*(Chapter I.—Preliminary.)*

- (i) the "family" of any person includes the following, if living with him, namely,—
- (i) in the case of a male,—his wife and any child and aged or incapacitated relative dependent on him,
  - (ii) in the case of a married woman,—her husband and any child and aged or incapacitated relative dependent on her or on her husband, and
  - (iii) in the case of any other woman,—any child and aged or incapacitated relative dependent on her,
- and in the case of an emigrant labourer, includes any person who, having accompanied him to Assam as a child dependent on him, has become an adult and is living with him;
- (j) "employing interest" means any employer of labourers, or any group or association of such employers; and
- (k) "prescribed" means prescribed by rules made by the <sup>1</sup>[Central Government]

**Appointment and status of Controller and Deputy Controllers.**

3. (1) The <sup>1</sup>[Central Government] may appoint a person to be Controller of Emigrant Labour, to exercise the powers and discharge the duties conferred and imposed upon the Controller by or under this Act.

(2) The <sup>1</sup>[Central Government] may also appoint one or more Deputy Controllers of Emigrant Labour, who shall exercise such of the powers and discharge such of the duties of the Controller as the <sup>1</sup>[Central Government] may determine.

(3) The Controller may, from time to time and subject to the control of the <sup>1</sup>[Central Government], make a distribution of work as between himself and the Deputy Controllers.

(4) The Controller and Deputy Controllers shall be deemed to be public servants within the meaning of the Indian Penal Code.

**XLV of  
1960.**

**Powers of the Controller.**

4. The Controller shall have power—

- (a) to enter—
  - (i) all open places on a tea estate,
  - (ii) any enclosed place on a tea estate where he knows or has reason to believe emigrant labourers are working or are accommodated.
  - (iii) any office of a tea estate,
  - (iv) any office or depot maintained by a labour recruiting agency, in Assam or in a recruiting Province,
  - (v) any train, vessel or vehicle which he knows or has reason to believe is being used for the conveyance of assisted emigrants;

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C."

*(Chapter I.—Preliminary.)*

- (b) to inspect, in any office or depot mentioned in sub-clauses (iii) and (iv) of clause (a), any register or other document required to be kept under this Act;
- (c) to carry out in any place mentioned in clause (a) any inquiry which he may deem to be expedient for carrying out the purposes of this Act; and
- (d) to do any other reasonable act which may be expedient in the discharge of his duties.

5. (1) In order to meet expenditure incurred in connection with the Controller, the Deputy Controllers and their staff, or under this Act, an annual cess shall be levied, to be called the Emigrant Labour Cess.

(2) It shall be paid in respect of the entry into Assam of each assisted emigrant and shall be payable by the employing interest on whose behalf he was recruited.

(3) It shall be levied at such rate, not exceeding nine rupees, for each such emigrant as the <sup>1</sup>[Central Government] may, by notification in the <sup>2</sup>[Official Gazette], determine for the year of levy.

(4) The proceeds of the cess shall be credited to a fund to be called the Emigrant Labour Fund, to be administered by the <sup>1</sup>[Central Government].

6. (1) The <sup>1</sup>[Central Government] may, by notification in the <sup>2</sup>[Official Gazette], make rules<sup>3</sup>—

- (a) prescribing the agency which shall collect the Emigrant Labour Cess;
- (b) prescribing the returns to be submitted to such agency by employers of emigrant labourers, and by persons who recruit or forward emigrant labourers, and the form and date of such returns;
- (c) regulating the procedure of the collecting agency;
- (d) prescribing the mode of payment of the cess;
- (e) determining the date when any sum payable as cess shall be an arrear;
- (f) declaring that an arrear of cess may be recovered as an arrear of land revenue and prescribing the procedure to be followed to secure such recovery; and
- (g) generally, to secure the equitable collection of the cess.

**Power to make rules for the collection of the Emigrant Labour Cess.**

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C"

<sup>2</sup> Subs. by the A.O. 1937 for "Gazette of India."

<sup>3</sup> See the Tea Districts Emigrant Labour Rules, 1933, Ch. III, published in the Gazette of India, 1933, Pt. I, p. 777 *et seq.*, and also, as subsequently amended, in the Tea Districts Emigrant Labour Manual.

## (Chapter II.—Repatriation.)

## CHAPTER II.

## REPATRIATION.

**General right of repatriation after three years in Assam.**

7. Every emigrant labourer, on the expiry of three years from the date of his entry into Assam, shall have the right of repatriation as against the employer employing him at such expiry.

**Right to repatriation on dismissal.**

8. (1) Any emigrant labourer who, before the expiry of three years from his entry into Assam, is dismissed by his employer, otherwise than for wilful and serious misconduct, shall have the right of repatriation against such employer.

(2) Where any emigrant labourer is dismissed by his employer before the expiry of three years from his entry into Assam, and his employer refuses or fails to repatriate him, the labourer may apply to the Controller, and the Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that the labourer has the right of repatriation against such employer.

**Rights of repatriation of family of deceased emigrant labourer.**

9. (1) Where an emigrant labourer other than a married woman living with her husband and having no child living with her dies within three years of his entry into Assam, the family of such labourer shall be entitled to be repatriated by the employer last employing him.

(2) Where such deceased labourer leaves a widow, she shall be deemed to be an emigrant labourer in whom a right of repatriation has arisen.

(3) Where there is no such widow, the Controller shall have all powers necessary to enforce the rights of the family under this section, and may take such action as he may deem to be expedient in their interests.

**Right to apply for repatriation in certain circumstances.**

10. (1) An emigrant labourer may, before the expiry of three years from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely:—

- (a) that his state of health makes it imperative that he should leave Assam, or
- (b) that his employer has failed to provide him with work suited to his capacity, at the normal rate of wages for that class of work, or
- (c) that his employer has unjustly withheld any portion of any wages due to him, or
- (d) any other sufficient cause.

(2) An emigrant labourer may, before the expiry of one year from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely:—

- (a) that he was recruited by coercion, undue influence, fraud or misrepresentation, or
- (b) that he was recruited otherwise than in accordance with the provisions of this Act and the rules made thereunder,

*(Chapter II.—Repatriation.)*

(3) The Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that an emigrant labourer applying under this section has a right of repatriation against his employer:

Provided that a declaration in pursuance of clause (d) of sub-section (1) may be made by the Controller only and not by any other officer exercising the powers of the Controller by or under this Act.

11. Where any employer of an emigrant labourer, or any agent of such employer in authority over such labourer, is convicted of any offence committed against such labourer and punishable under Chapter XVI of the Indian Penal Code with imprisonment for one year or upwards, the convicting Court or the appellate Court or the High Court when exercising its powers of revision may declare that such labourer has a right of repatriation against such employer.

**Power of criminal Courts to order repatriation.**

**XLV of 1860.**

12. (1) When an emigrant labourer has a right of repatriation against any employer, the employer or his agent shall defray the cost of the return journey of the emigrant labourer and his family from the station nearest the employer's tea estate to the home of the labourer and shall provide subsistence allowances on the prescribed scale for such labourer and his family for the time requisite for him and his family to travel from such estate to his home:

**Incidents of the right of repatriation.**

Provided that where the emigrant labourer is a married woman living with her husband who is also an emigrant labourer, her right of repatriation arising under section 7 shall extend only to herself and any children dependent on her:

Provided further that a married woman living with her husband is entitled to be treated as a member of his family notwithstanding that she is herself an emigrant labourer.

(2) In the event of any dispute regarding the cost of the return journey or subsistence allowances, the question shall be referred for decision to the Controller.

13. (1) Within fifteen days from the date on which a right of repatriation arises to an emigrant labourer, or within such shorter period as the authority declaring such right may determine, the employer concerned shall, subject to any agreement under section 14, make all necessary arrangements for the homeward journey of the labourer and his family, and shall despatch them on their journey:

**The discharge of an employer's duty to repatriate.**

Provided that an employer shall not be required to make such arrangements for or any payment in respect of any adult person who does not wish to leave Assam.

(2) Where an employer fails to comply with the provisions of sub-section (1), the right of repatriation of the emigrant labourer concerned shall not be affected, but the employer shall be liable to pay to the labourer one rupee for each day on which he is in default:

## (Chapter II.—Repatriation.)

Provided that on application made to him by either party the Controller may direct that the labourer shall be paid at a lower rate than one rupee a day or at a higher rate not exceeding two rupees a day, and may also determine the number of days, being a reasonable number regard being had to all the circumstances of the case, for which the payment shall be made.

**Postpone-  
ment, waiver  
and for-  
feiture of the  
right.**

14. (1) An emigrant labourer may, by agreement with his employer, postpone his exercise of the right of repatriation, or may waive it conditionally or unconditionally, but no such agreement shall be valid unless it is in writing and in the prescribed form and has been made not more than one month before the right of repatriation arises:

Provided that the <sup>1</sup>[Central Government] may, by notification in the <sup>2</sup>[Official Gazette], make rules requiring that in any area such agreement shall be made in the prescribed manner before a prescribed authority and that the prescribed authority, if satisfied that the labourer understands the terms of his agreement, and his rights in regard to repatriation, shall ratify the agreement:

Provided further that after such rules come into force no such agreement shall be valid unless it is so made and ratified.

(2) Where an emigrant labourer having a right to repatriation fails without reasonable cause to proceed on his homeward journey at the time arranged by his employer, the employer may notify the Controller of such failure, and the Controller, after such inquiry as he may think fit and after giving the labourer an opportunity to be heard, may declare that the labourer has forfeited his right of repatriation, and such labourer shall not be entitled to repatriation again as against any employer, save by an order of the Court under section 11.

**Power of the  
Controller  
to enforce  
the provi-  
sions of this  
Chapter.**

15. (1) Where the Controller, on information obtained from any source and after such inquiry as he may think fit and after giving the employer concerned an opportunity to be heard, is of opinion that an emigrant labourer is entitled to repatriation under any of the provisions of this Chapter, or is entitled to the payment of any sum of money under the provisions of sub-section (2) of section 13, the Controller may direct the employer concerned to despatch such labourer and his family or to pay him the sum of money within such period as the Controller may fix.

(2) If the employer fails to comply with such direction, the Controller may repatriate the labourer and his family or pay him the sum of money out of any funds at the Controller's disposal, and shall recover the costs incurred from the employer.

(3) For the purposes of such recovery the Controller may certify the costs to be recovered to the Collector, who shall recover the amount and may recover it as an arrear of land-revenue.

<sup>1</sup> Suba. by the A.O. 1937 for "G.G. in C."

<sup>2</sup> Suba. by the A.O. 1937 for "Gazette of India".

*(Chapter II.—Repatriation. Chapter III.—Controlled Emigration Areas.)*

(4) The Controller shall have similar powers in regard to any person in Assam who he knows or has reason to believe is a member of the family of a repatriated emigrant labourer who should have been repatriated along with such labourer.

## CHAPTER III.

## CONTROLLED EMIGRATION AREAS.

16. <sup>1</sup>[(1) The Central Government may, by notification in the Official Gazette, declare any area within a recruiting Province to be a controlled emigration area and thereupon the provisions of this Chapter shall apply to that area:

**Power to declare controlled emigration areas.**

Provided that the Central Government may by the same or any subsequent notification declare that any of the provisions of this Chapter shall not apply in that area, or shall apply subject to such general or special relaxations as may be specified.]

(2) A notification under sub-section (1) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 17 and such licences shall be dated as being granted on the date on which the notification takes effect and shall not be valid until that date.

17. (1) The <sup>2</sup>[Central Government], or any District Magistrate empowered by it in this behalf, may grant a licence to any person to act as local forwarding agent in any part of a controlled emigration area, on behalf of an employer or employers of labourers.

**Power to grant licences to local forwarding agents,**

(2) Such licences shall be granted only on the application of an employing interest.

(3) No such application shall be entertained unless the Controller has certified that the employing interest making the application has made proper provision, in accordance with section 20 and rules made under section 21, for the forwarding, accommodation and feeding of assisted emigrants on their journey to the tea estates on which they are to be employed.

(4) A local forwarding agent may be granted separate licences on applications by separate employing interests.

18. (1) Whoever arranges with any person in a controlled emigration area that such person shall proceed to Assam with assistance, shall take or send such person, along with the members of his family who are to accompany him to Assam, to the depot of a local forwarding agent licensed for the area in which the arrangement was made, unless the arrangement was made at such a depot.

**Recruits in controlled emigration areas to be sent to forwarding agents' depots,**

<sup>1</sup> Subs. by the A. O. 1937 for the original sub-section.

<sup>2</sup> Subs. by the A. O. 1937 for "L. G."



## (Chapter III.—Controlled Emigration Areas.)

(2) Whoever arranges with any person in an Indian State that such person shall proceed to Assam with assistance and brings or sends such person and any of the members of his family into any controlled emigration area, shall take or send such person and members to the depot of a local forwarding agent licensed for that area.

(3) At every such depot proper arrangements shall be made for the accommodation and feeding of assisted emigrants and their families.

Assisted emigrants to be forwarded to Assam by local forwarding agents by prescribed routes,

Maintenance of depots along prescribed routes.

19. An assisted emigrant and his family shall be forwarded to Assam from the depot of a local forwarding agent by such agent and only by such routes and in such manner as may be prescribed by rules made under section 37, and shall be accompanied on their journey by a competent person deputed by the local forwarding agent.

20. Every employing interest which recruits labour in a controlled emigration area shall maintain or have the right to use depots at reasonable intervals on the prescribed routes by which it forwards assisted emigrants to Assam, for the accommodation and feeding of assisted emigrants and their families.

Power of Central Government to make rules.

21. (1) The [Central Government] may, by notification in the [Official Gazette], make rules<sup>1</sup>—

- (a) prescribing the form and particulars of licences to be granted to local forwarding agents, and the annual fees, not exceeding ten rupees, which may be levied from persons holding such licences;
- (b) prescribing returns relating to assisted emigrants and their families which shall be made by local forwarding agents and the registers and the form thereof which shall be maintained by such agents;
- (c) prescribing the scales of diet which shall be provided for assisted emigrants and their families at depots;
- (d) prescribing the accommodation which shall be provided for assisted emigrants and their families at depots, and the sanitary and medical arrangements at such depots;
- (e) providing for the detention, for a period not exceeding three days, at depots of local forwarding agents of women unaccompanied by their husbands who propose to proceed to Assam as assisted emigrants, and for investigation into their circumstances;
- (f) prescribing the information which shall be supplied by local forwarding agents to assisted emigrants regarding the conditions of life and work on tea estates, and the methods in which it shall be supplied;

<sup>1</sup> Subs. by the A. O. 1937 for "L. G."

<sup>2</sup> Subs. by the A. O. 1937 for "local official Gazette".

<sup>3</sup> For a collection of the rules made by the Provincial Govts. under this section before 1st April, 1937, see the Tea Districts Emigrant Labour Manual.

*(Chapter III.—Controlled Emigration Areas.)*

(g) providing for any other matter which in the opinion of the <sup>1</sup>[Central Government] may be required to give effect to the provisions of this Chapter.

(2) In making rules under clause (b), clause (c), clause (f) or clause (g) of sub-section (1), the <sup>1</sup>[Central Government] may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

22. (1) The Civil Surgeon, the District Magistrate or the Sub-Divisional Magistrate, or any Magistrate or police officer not below the rank of Inspector, deputed by the District Magistrate or the Sub-Divisional Magistrate, may enter a local forwarding agent's depot, or any depot maintained by an employing interest on a prescribed route to Assam, and inspect the accommodation, feeding arrangements, and sanitary arrangements provided for assisted emigrants and their families and all registers and other documents required to be maintained or kept by or under this Act and shall record the results of such inspection in a book to be kept in such depot for the purpose.

**Inspection  
of depots,  
vessels and  
vehicles.**

(2) The Civil Surgeon or such Magistrate or person deputed may also enter and inspect any vessel, train or vehicle on which assisted emigrants are travelling, or on which he has reason to believe that any assisted emigrant is travelling, whether along a prescribed route or not.

23. If the <sup>2</sup>[Central Government] is satisfied that an employing interest recruiting assisted emigrants in a controlled area is not making proper provision for the forwarding, accommodation or feeding of such emigrants and their families on their journey to Assam, <sup>3</sup>[the Central Government may] direct all District Magistrates concerned to cancel or suspend all licences under section 17 held by local forwarding agents on behalf of such employing interest :

**Action where  
proper  
arrange-  
ment not  
made for  
assisted  
emigrants.**

Provided that the <sup>2</sup>[Central Government] shall not <sup>4</sup>direct the cancellation of any] licences under this section until <sup>5</sup>[it] has given the employing interest concerned an opportunity to submit its explanation.

24. (1) The <sup>1</sup>[Central Government] may cancel wholly or in part any licence granted to a local forwarding agent, and a District Magistrate may cancel wholly or in part any licence granted by him to a local forwarding agent,—

**Cancellation  
of licences.**

(a) if, in the opinion of the <sup>1</sup>[Central Government] or of the District Magistrate, as the case may be, such agent has been guilty of misconduct or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act, or

<sup>1</sup> Subs. by the A. O. 1937 for "L. G."

<sup>2</sup> Subs. by the A. O. 1937 for "G. G. in C."

<sup>3</sup> Subs. by the A. O. 1937 for "he may require the L. G. to"

<sup>4</sup> Subs. by the A. O. 1937 for "make any requisition for the cancellation of".

<sup>5</sup> Subs. by the A. O. 1937 for "he".

(Chapter III.—Controlled Emigration Areas. Chapter IV.—Restricted Recruiting Areas.)

- (b) if the employing interest, on whose application the licence was granted, has applied to the <sup>1</sup>[Central Government] or to the District Magistrate, as the case may be, for the cancellation of the licence, or
- (c) if in the opinion of the <sup>1</sup>[Central Government] or of the District Magistrate, as the case may be, an employer on whose behalf the agent is licensed to act has been guilty of misconduct, or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act:

Provided that no licence shall be cancelled under clause (a) until the holder thereof has or under clause (c) until the holder thereof and the employer concerned have had an opportunity to show cause against the cancellation:

Provided further that a cancellation under clause (c) shall, where the agent is licensed to act on behalf of more than one employer, operate only to prevent the agent from acting on behalf of the employer held guilty.

(2) A local forwarding agent whose licence has been cancelled by a District Magistrate under clause (a) of sub-section (1), or any employing interest on whose behalf he acts, may, within three months from the date of the District Magistrate's order, appeal to the <sup>1</sup>[Central Government], whose decision shall be final.

**Penalty for illicit abetment of emigration.**

25. Where any person who is required to be taken or sent to a local forwarding agent's depot in any district under section 18 leaves that district on his journey to Assam without being so taken or sent, or, being an assisted emigrant, proceeds to Assam otherwise than in accordance with section 19, or by any route other than a route prescribed under section 37, any person who abets him in so leaving the district or in so proceeding to Assam, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

## CHAPTER IV.

### RESTRICTED RECRUITING AREAS.

**Power to declare restricted recruiting areas.**

26. <sup>2</sup>(1) The Central Government may, by notification in the Official Gazette, declare any controlled emigration area or any part of a controlled emigration area within a recruiting Province to be a restricted recruiting area and thereupon the provisions of this Chapter shall apply to that area:

Provided that the Central Government may, by the same or any subsequent notification, declare that any of the provisions of this Chapter shall not apply in relation to that area, or shall apply subject to such general or special relaxations as may be specified.]

<sup>1</sup> Subs. by the A. O. 1937 for "L. G."

<sup>2</sup> Subs. by the A. O. 1937 for the original sub-section.

*(Chapter IV.—Restricted Recruiting Areas.)*

(2) A notification under sub-section (1) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 27 or certificates may be granted and endorsements made under section 28, and such licences, certificates and endorsements shall be dated as being granted or made on the date on which the notification takes effect and shall not be valid until that date.

27. (1) Subject to rules made under sub-section (2) and sub-section (3), the District Magistrate may grant a licence to any person to act as recruiter in the whole or any part of his district. **Grant of licences to recruiters.**

(2) The <sup>1</sup>[Central Government] may, by notification in the <sup>2</sup>[Official Gazette], make rules prescribing the qualifications for persons who may be granted licences under this section.

(3) <sup>3</sup>[The Central Government] may, by notification in the <sup>4</sup>[Official Gazette], make rules <sup>5</sup>[as respects any restricted recruiting area]—

(a) regulating the procedure of the District Magistrate in granting such licences,

(b) prescribing the form and particulars of such licences, and the fees, not exceeding ten rupees, to be paid therefor.

28. (1) Subject to rules made under sub-section (2), the owner or manager of a tea estate may grant a certificate to any person employed on such estate as a labourer or in a position of supervision or management empowering him to recruit labour for such estate in the whole or any part of a restricted recruiting area, and such person shall thereupon be entitled to recruit labour for such estate as a garden-sardar in the area specified: **Grant of certificates to garden-sardars.**

Provided that <sup>3</sup>[the Central Government] may, by notification in the <sup>4</sup>[Official Gazette], make rules <sup>5</sup>[as respects any restricted recruiting area] directing that certificates of garden-sardars or of specified classes of garden-sardars shall not be valid in any district in any such area until they have been endorsed as valid for that district by the District Magistrate or a Magistrate authorised by the District Magistrate in this behalf.

(2) The <sup>6</sup>[Central Government] may make rules <sup>5</sup>[for Assam]—

(a) regulating the procedure of owners and managers in granting and withdrawing such certificates,

(b) prescribing the form and particulars of such certificates.

29. The District Magistrate may, for reasons to be recorded by him, cancel or suspend the licence of a recruiter on the ground of his misconduct or wilful neglect or default in the discharge of the duties imposed on him by or under this Act: **Cancellation and suspension of recruiter's licence.**

<sup>1</sup> Subs. by the A. O. 1937 for "G. G. in C."

<sup>2</sup> Subs. by the A. O. 1937 for "Gazette of India".

<sup>3</sup> Subs. by the A. O. 1937 for "the L. G. having jurisdiction over any restricted recruiting area."

<sup>4</sup> Subs. by the A. O. 1937 for "local official Gazette,"

<sup>5</sup> Ins. by the A. O. 1937.

*(Chapter IV.—Restricted Recruiting Areas. Chapter V.—Supplemental.)*

Provided that no licence shall be cancelled under this section until the holder thereof has had an opportunity of showing cause against the cancellation.

**Cancellation  
of garden-  
sardar's  
Certificate.**

30. (1) The District Magistrate of any district in respect of any part of which a garden-sardar holds a certificate may cancel the certificate if he is satisfied that the garden-sardar has contravened any of the provisions of this Act or of the rules made thereunder.

(2) A District Magistrate cancelling a certificate under sub-section (1) shall record his reasons, and shall send intimation of his action to the District Magistrate of every other district in respect of any part of which the certificate was valid and to the person who granted the certificate.

**Penalty for  
illicit  
recruitment.**

31. Whoever, not being a licensed recruiter holding a licence under section 27, or a garden-sardar holding a valid certificate under section 28, or a local forwarding agent holding a licence under section 17, in any part of a restricted recruiting area gives or offers any money or goods to any person, or defrays or offers to defray any travelling expenses of any person, as an inducement to such person to proceed to Assam as an assisted emigrant, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

## CHAPTER V.

### SUPPLEMENTAL.

**Prohibition  
of the  
recruitment  
of children.**

32. (1) No person shall in any way assist a child to proceed from any recruiting Province to Assam, to work in any capacity on a tea estate, unless such child is accompanied by a parent or other adult relative on whom he is dependent, and no person shall so assist a married woman who is living with her husband unless she is so proceeding with the consent of her husband.

(2) Any person who knowingly contravenes the provisions of this section shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**Power to  
detain and  
return sick  
persons.**

33. (1) Where it appears to the Controller that any person proceeding to a tea garden with assistance, or any member of the family of such person, is suffering from an infectious or contagious disease, or is not in a fit state of health to proceed on his journey, the Controller may—

- (a) detain such person and his family,
- (b) send the sufferer for medical treatment to a hospital or dispensary or other suitable place, and
- (c) cause all necessary arrangements to be made for the accommodation and feeding of the other members of the party so detained,

*(Chapter V.—Supplemental.)*

and all arrangements for such detention and treatment shall be made by and at the cost of the employing interest on whose behalf such person was recruited.

(2) Where it appears that a sufferer detained under sub-section (1) is not likely to be in a fit state of health to proceed on his journey within a reasonable time, the Controller may direct that he and the other members of his party detained with him shall be returned to the home of the person proceeding with assistance by and at the cost of the employing interest on whose behalf such person was recruited.

34. Where it appears to the Controller after such inquiry as he thinks fit to make that any person proceeding to a tea estate with assistance—

**Power to return person improperly recruited.**

(a) has been recruited by coercion, undue influence, fraud or misrepresentations, or

(b) has been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder,

the Controller may direct that such person and his family shall if such person so desires be returned to his home by and at the cost of the employing interest on whose behalf he was recruited.

35. (1) If an employing interest fails to make arrangements to the satisfaction of the Controller for the detention or treatment of any person detained under sub-section (1) of section 33, the Controller may himself make such arrangements and defray the cost out of any funds at his disposal.

**Power to enforce the provisions of sections 33 and 34.**

(2) In making a direction under sub-section (2) of section 33 or under section 34 the Controller may fix a period within which such person and family shall be forwarded by the employing interest concerned, and shall send a copy of his direction to the employing interest concerned, and to the nearest agent, if any, of such employing interest in the Province where such person then is.

(3) If the employing interest fails to comply with the direction within the time fixed, the Controller may cause such person and his family to be returned to his home and defray the cost out of any funds at the Controller's disposal.

(4) The Controller shall recover any costs incurred by him under this section from the employing interest concerned, and for the purposes of such recovery may certify the costs to be recovered to the Collector of any district in which a tea estate belonging to the employing interest concerned, or to any member thereof, is situated, and the Collector shall recover the amount and may recover it as an arrear of land-revenue.

(5) Any costs so certified may, where the employing interest concerned is a group or association of employers, be recovered from any one of such employers.

36. (1) Subject to the provisions of sub-section (3) of section 10, any District Magistrate in Assam may exercise in respect of his district any power which the Controller by or under this Act could exercise in such district.

**Magistrates and medical officers who may exercise**

## (Chapter V.—Supplemental.)

**The powers  
of the  
Controller.**

(2) The Controller may transfer any proceeding under Chapter II pending before him to the District Magistrate having jurisdiction under sub-section (1) to dispose of it.

(3) <sup>1</sup>[The Central Government may invest a District Magistrate or a Sub-Divisional Magistrate in any recruiting Province and a Sub-Divisional Magistrate in Assam] with any of the powers of the Controller under section 4 or section 33 or section 34 or section 35 in respect of his district or sub-division, as the case may be.

(4) The <sup>2</sup>[Central Government] may invest any medical officer not below the rank of Assistant Surgeon with any of the powers of the Controller under section 33 and section 35.

**Power of  
Central  
Government  
to make  
rules.**

37. (1) The <sup>3</sup>[Central Government] may, by notification in the <sup>4</sup>[Official Gazette], make rules<sup>5</sup>—

- (a) regulating the procedure of the Controller and of persons exercising the powers of the Controller in the exercise of their powers under this Act;
- (b) where there are more authorities than one exercising any of the powers of the Controller in the same area, regulating the exercise of their powers by such authorities;
- (c) prescribing scales of subsistence allowances for the purposes of section 12;
- (d) prescribing the form of agreements under section 14;
- (e) prescribing the routes by which assisted emigrants may be forwarded from districts in controlled emigration areas to tea districts;
- (f) prescribing the manner in which assisted emigrants and their families shall be forwarded to Assam from the depots of local forwarding agents;
- (g) prescribing the action to be taken by local forwarding agents and by persons in charge of depots on prescribed routes where an assisted emigrant or a member of his family appears to be suffering from infectious or contagious disease or where an assisted emigrant appears to have been recruited by coercion, undue influence, fraud or misrepresentation, or to have been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder;
- (h) directing that employers of emigrant labourers shall keep registers of such labourers and their families, and prescribing the form of such registers;

<sup>1</sup> Subs. by the A.O. 1937 for "The L. G. of a recruiting province may invest a District Magistrate or a Sub-Divisional Magistrate and the L. G. of Assam may invest a Sub-Divisional Magistrate."

<sup>2</sup> Subs. by the A. O. 1937 for "L. G."

<sup>3</sup> Subs. by the A. O. 1937 for "G. G. in C."

<sup>4</sup> Subs. by the A. O. 1937 for "Gazette of India."

<sup>5</sup> See the Tea Districts Emigrant Labour Rules, 1933, published in the Gazette of India, 1933, Pt. I, p. 777 *et seq.*, as subsequently amended.

*(Chapter V.—Supplemental.)*

(i) directing that employing interests which recruit emigrant labourers shall keep registers of such labourers and their families, and of their journeys to and from Assam, and prescribing the form of such registers ;

(j) requiring employers of emigrant labourers and employing interests which recruit emigrant labourers to submit such return in respect of such labourers as the <sup>1</sup>[Central Government] may think expedient for carrying out the purposes of this Act; and

(k) generally, to carry out the purposes of this Act.

(2) The <sup>2</sup>[Central Government] may, by notification in the <sup>3</sup>[Official Gazette], make rules <sup>4</sup>[for Assam] requiring employers of labourers on tea estates to submit returns of wages and earnings of labourers employed by them.

(3) <sup>5</sup>[Rules made under this section] may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees.

38. (1) The <sup>1</sup>[Central Government] may, by notification in the <sup>6</sup>[Official Gazette], declare that the provisions of this Act shall apply in respect of any lands and premises in Assam other than tea estates, and thereupon the provisions of this Act shall apply in all respects to such lands and premises as if they were tea estates. **Powers to extend the scope of this Act.**

(2) <sup>7</sup>[The Central Government] may, by notification in the <sup>3</sup>[Official Gazette], declare that the provisions of this Act shall apply in any area in Assam other than the districts specified in clause (a) of section 2, and thereupon the provisions of this Act shall apply in all respects to such area as if it were a tea district.

39. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act. **Saving for acts done in good faith under the Act.**

40. No Civil Court shall have jurisdiction—

(a) to deal with or decide any question which the Controller is, by or under this Act, empowered to deal with or to decide, or **Bar of jurisdiction of Civil Courts.**

(b) to enforce any liability incurred under this Act.

41. [*Repeal of Act VI of 1901 and certain consequences.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

*THE SCHEDULE.—Rep. by the Repealing and Amending Act 1937 (XX of 1937), s. 3 and Sch. II.*

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>2</sup> Subs. by the A. O. 1937 for "L. G. of Assam".

<sup>3</sup> Subs. by the A. O. 1937 for "local official Gazette".

<sup>4</sup> Ins. by the A. O. 1937.

<sup>5</sup> Subs. by the A. O. 1937 for "In making rules under sub-section (1), the G.G. in C., and in making rules under sub-section (2) the L. G."

<sup>6</sup> Subs. by the A. O. 1937 for "Gazette of India."

<sup>7</sup> Subs. by the A. O. 1937 for "Subject to the control of the G.G. in C. the L.G. of Assam."



## THE CRIMINAL LAW AMENDMENT ACT, 1932,

Act No. XXIII of 1932.<sup>1</sup>

[19th December, 1932.]

## An Act to Supplement the Criminal Law.

**W**HEREAS it is expedient to supplement the Criminal Law and to that end to amend the Indian Press (Emergency Powers) Act, 1931, and further to amend <sup>2x</sup> the Indian Criminal Law Amendment Act, 1908, for the purposes hereinafter appearing;

XXIII of 1931.

XIV of 1908.

It is hereby enacted as follows:—

Short title,  
extent,  
duration  
and com-  
mencement.

1. (1) This Act may be called the Criminal Law Amendment Act, 1932.

(2) It extends<sup>3</sup> to <sup>4</sup>[all the Provinces of India] including <sup>5x</sup> \* \* \* the Sonthal Parganas.

(4) The whole of the Act except <sup>7</sup> \* \* \* section 7 shall come into force at once, and the <sup>8</sup>[Provincial Government] may, by notification<sup>9</sup> in the <sup>10</sup>[Official Gazette] direct that <sup>11x</sup> \* \* \* section 7 shall come into force in any area on such date as may be specified in the notification.

2 to 4. [*Dissuasion from enlistment. Tampering with public servants. Boycotting a public servant.*] Rep. by the Criminal Law Amendment Act, 1935, s. 2.

Dissemina-  
tion of con-  
tents of  
proscribed  
document.

5. (1) Whoever publishes, circulates or repeats in public any passage from a newspaper, book or other document copies whereof have been declared

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1932, Pt. V, p. 206; for Report of Select Committee, see *ibid.*, 1932, Pt. V, p. 225.

<sup>2</sup> The word "temporarily" rep. by the Criminal Law Amendment Act, 1935, s. 3.

<sup>3</sup> The Act has been declared to be in force in the Khondwals District by the Khondwals Laws Regulation, 1936 (4 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936), s. 3 and Sch. and extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>4</sup> Subs. by the A.O. 1918 for "the whole of British India"

<sup>5</sup> The words "British Baluchistan and" rep. by the A.O. 1948.

<sup>6</sup> Subsection (3), limiting the duration of the Act to three years from commencement, was rep. by the Criminal Law Amendment Act, 1935, s. 2.

<sup>7</sup> The words and figure "section 1 and," rep. by s. 4, *ibid.*

<sup>8</sup> Subs. by the A. O. 1937 for "L. G."

<sup>9</sup> S. 7 was brought into force in—

Former Province of Bihar and Orissa from 26th December, 1932: see B. & O. Gazette Extraordinary, dated 26th December, 1932;

The Delhi Province from 24th December, 1932: see Gazette of India, Extraordinary, 1932, p. 429;

The City of Bombay, the Bombay Suburban district and the districts of Kaira, Ahmednagar, East Khandesh, West Khandesh, Ratnagiri and Kamara from 29th December, 1932: see Bombay Gazette, Extraordinary, dated 27th December, 1932;

Amritsar district from 31st December, 1932: see Punjab Gazette, Extraordinary, 1932, p. 163;

The Districts of Cachar, Goalpara, Kamrup, Darrang, Nowgong, Sibsagar and Lakhimpur from 7th January, 1933: see Assam Gazette Extraordinary, dated 7th January, 1933;

Ajmer-Merwara from 30th September, 1933, see Gazette of India, 1933, Pt. II-A, p. 716.

<sup>10</sup> Subs. by the A. O. 1937 for "local official Gazette."

<sup>11</sup> The words and figure "section 4 or" rep. by the Criminal Law Amendment Act, 1935, s. 4

to be forfeited to His Majesty under any law for the time being in force, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) No Court shall take cognizance of an offence punishable under this section unless the <sup>1</sup>[Provincial Government] has certified that the passage published, circulated or repeated contains, in the opinion of the <sup>1</sup>[Provincial Government], seditious or other matter of the nature referred to in sub-section (1) of section 99A of the Code of Criminal Procedure, 1898, or sub-section (1) of section 4 of the Indian Press (Emergency Powers) Act, 1931.

6. [*Dissemination of false rumours.*] *Rep. by the Criminal Law Amendment Act, 1935, s. 2.*

7. (1) Whoever—

(a) with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family or person in his employ, or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be, or persistently follows him from place to place, or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof, or

(b) loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place,

Molesting  
a person to  
prejudice of  
employment  
or business.

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

*Explanation.*—Encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section is not an offence under this section.

(2) No Court shall take cognizance of an offence punishable under this section except upon a report in writing of facts which constitute such offence made by a police officer not below the rank of officer in charge of a police station.

8. [*Power to order parent or guardian to pay fine imposed on young person.*] *Rep. by the Criminal Law Amendment Act, 1935, s. 2.*

9. Notwithstanding anything contained in the Code of Criminal Procedure, 1898,—

(i) no Court inferior to that of a Presidency Magistrate or Magistrate of the first class shall try any offence under this Act;

(ii) an offence punishable under sections 2\* \* 5 2\* or 7 shall be cognizable by the police;

Procedure  
in offences  
under the  
Act.

<sup>1</sup> Subs. by the A. O. 1937 for "L. G."

<sup>2</sup> The figures "2", "3" and "6" rep. by the Criminal Law Amendment Act, 1935, s. 5.

1

\*

\*

\*

\*

and (iv) an offence punishable under section 7 shall be non-bailable,

Power of  
Provincial  
Government  
to make  
certain  
offences  
cognizable  
and non-  
bailable.

10. (1) The <sup>2</sup>[Provincial Government] may, by notification<sup>3</sup> in the "[Official Gazette]", declare that any offence punishable under section 186, 188, 189, 190, 228, 295A, 298, 505, 506 or 507 of the Indian Penal Code, when committed in any area specified in the notification shall, notwithstanding anything contained in the Code of Criminal Procedure, 1898, be cognizable, and thereupon the Code of Criminal Procedure, 1898, shall, while such notification remains in force, be deemed to be amended accordingly. **XLV of 1860.**  
**V of 1898.**

(2) The <sup>2</sup>[Provincial Government] may, in like manner and subject to the like conditions, and with the like effect, declare<sup>3</sup> that an offence punishable under section 188 or section 506 of the Indian Penal Code shall be non-bailable. **XLV of 1860.**

11 to 14. [Amendment of s. 16, Act XIV of 1908, Amendment of s. 17, Act XIV of 1908, Insertion of new ss. 17A to 17F in Act XIV of 1908, Amendment of title and preamble of Act XXIII of 1931.] Rep. by the Repealing Act, 1938 (1 of 1938) s. 2 and Sch.

15. [Amendment of s. 1, Act XXIII of 1931] Rep. by the Criminal Law Amendment Act, 1935, s. 2.

16. [Amendment of s. 4, Act XXIII of 1931.] Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Sch.

17. [Cessation of effect of s. 62, Ordinance X of 1932.] Rep. by the Criminal Law Amendment Act, 1935, s. 2.

Adoption  
and con-  
tinuance of  
action taken  
under Ordinance X of 1932.

18. Anything done or any proceedings commenced in pursuance of the provisions of Chapter VI of the Special Powers Ordinance, 1932, shall, upon the commencement of this Act, be deemed to have been done or to have been commenced in pursuance of the corresponding provisions of the Indian Criminal Law Amendment Act, 1908, as amended by this Act, and shall have effect as if this Act was already in force when such thing was done or such proceedings were commenced. **X of 1932.**  
**XLV of 1908.**

Adoption  
and con-  
tinuance of  
action taken  
under Act XXIII of 1931 as amended by Ordinance X of 1932.

19. Anything done or any proceedings commenced in pursuance of the provisions of the Indian Press (Emergency Powers) Act, 1931, as amended by section 77 of the Special Powers Ordinance, 1932, shall, upon the commencement of this Act, be deemed to have been done or to have been commenced in pursuance of the corresponding provisions of the Indian Press (Emergency Powers) Act, 1931, as amended by this Act, and shall have effect as if this Act was already in force when such thing was done or such proceedings were commenced. **XXIII of 1931.**  
**X of 1932.**  
**XXIII of 1931.**

20. [Trial of, and completion of trials of, offences against Ordinance X of 1932.] Rep. by the Criminal Law Amendment Act, 1935, s. 2.

<sup>1</sup> Cl. (iii) rep. by s. 5 of the Criminal Law Amendment Act, 1935, s. 5.

<sup>2</sup> Subs. by the A. O. 1937 for "L. G."

<sup>3</sup> For such notifications, as to the former Province of B. & O., see B. & O. Gazette, Extraordinary, dated 26th December, 1932; and as to the former Presidency of Bombay, see Bombay Gazette Extraordinary, dated 27th December, 1932.

<sup>4</sup> Subs. by the A.O. 1937 for "local official Gazette."

## BENGAL SUPPRESSION OF TERRORIST OUTRAGES (SUPPLEMENTARY) ACT, 1932.

. <sup>1</sup>Act No. XXIV of 1932.

[23rd December, 1932.]

### An Act to supplement the Bengal Suppression of Terrorist Outrages Act, 1932.

**Ben. Act,  
XII of 1932.**

**W**HEREAS it is expedient to supplement the Bengal Suppression of Terrorist Outrages Act, 1932; It is hereby enacted as follows.—

1. This Act may be called the Bengal Suppression of Terrorist Outrages **Short title.**  
(Supplementary) Act, 1932.

2. In this Act,—

**Definitions.**

**V of 1898.**

(a) " Code " means the Code of Criminal Procedure, 1898; and

**Ben Act,  
XII of 1932.**

(b) " local Act " means the Bengal Suppression of Terrorist Outrages Act, 1932.

3. (1) An appeal shall lie to the High Court of Judicature at Fort **Appeals.**  
William in Bengal, from—

(a) any sentence passed by a Special Magistrate in any trial held under the local Act in the Presidency town of Calcutta,

(b) any sentence of transportation for a term exceeding two years, or of imprisonment for a term exceeding four years passed by a Special Magistrate in any trial under the local Act held outside the Presidency-town of Calcutta.

(2) An appeal under sub-section (1) shall be presented within thirty days from the date of the sentence, and shall be disposed of by the High Court in the manner provided in Chapter XXXI of the Code for the hearing of appeals.

4. Section 19 of the local Act shall have effect as if it had been enacted by the Indian Legislature.

**Effect of  
section 19  
of local Act**

5. Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law, there shall, save as provided in the local Act as supplemented by this Act, be no appeal from any order or sentence passed by a Special Magistrate under the local Act and save as aforesaid no Court shall have authority to revise such order or sentence, or to transfer any case from any such Magistrate, or to make any order under section 491 of the Code, or have any jurisdiction of any kind in respect of any proceedings of any such Magistrate, or of any direction made under Chapter II of the local Act:

**Exclusion  
of inter-  
ference of  
Courts with  
proceedings  
under local  
Act.**

2\*

<sup>1</sup> For Statement of Objects and Reasons. see Gazette of India, 1932, Pt. V, p.

<sup>2</sup> Proviso to s. 5 rep. by the A. O. 1937.

## THE CHILDREN (PLEDGING OF LABOUR) ACT, 1933.

Act No. II of 1933.<sup>1</sup>

[24th February, 1933.]

## An Act to prohibit the pledging of the labour of children.

**W**HEREAS it is expedient to prohibit the making of agreements to pledge the labour of children, and the employment of children whose labour has been pledged: It is hereby enacted as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Children (Pledging of Labour) Act, 1933.

(2) It extends to <sup>2</sup>[all the Provinces of India] including <sup>3</sup> \* \* \* the Sonthal Parganas.

(3) This section and sections 2 and 3 shall come into force at once, and the remaining sections of this Act shall come into force on the first day of July, 1933.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

“ an agreement to pledge the labour of a child ” means an agreement, written or oral, express or implied, whereby the parent or guardian of a child, in return for any payment or benefit received or to be received by him, undertakes to cause or allow the services of the child to be utilised in any employment :

Provided that an agreement made without detriment to a child and not made in consideration of any benefit other than reasonable wages to be paid for the child's services, and terminable at not more than a week's notice, is not an agreement within the meaning of this definition ;

“ child ” means a person who is under the age of fifteen years, and

“ guardian ” includes any person having legal custody of or control over a child.

3. An agreement to pledge the labour of a child shall be void.

Agreements  
contrary to  
the Act to  
be void.

Penalty for  
Parent or  
guardian  
making  
agreement to  
pledge the  
labour of a  
child.

4. Whoever, being the parent or guardian of a child, makes an agreement to pledge the labour of that child, shall be punished with fine which may extend to fifty rupees.

Penalty for  
making with  
a parent or  
guardian an  
agreement to  
pledge the  
labour of a  
child.

5. Whoever makes with the parent or guardian of a child an agreement whereby such parent or guardian pledges the labour of the child shall be punished with fine which may extend to two hundred rupees.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1932, Pt. V. p. 195.

The Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Subs. by the A.O. 1948 for “the whole of British India.”

<sup>3</sup> The words “British Baluchistan and” were rep. by the A.O. 1948.

6. Whoever, knowing or having reason to believe that an agreement has been made to pledge the labour of a child, in furtherance of such agreement employs such child, or permits such child to be employed in any premises or place under his control, shall be punished with fine which may extend to two hundred rupees.

Penalty for employing a child whose labour has been pledged.

## THE INDIAN FINANCE ACT, 1933.

Act No. VII of 1933.<sup>1</sup>

[31st March, 1933.]

An Act <sup>2\*</sup> \* to fix rates of income-tax and super-tax <sup>3</sup> \* \* \*

**W**HEREAS it is expedient <sup>2\*</sup> \* to fix rates of income-tax and super-tax <sup>3\*</sup> \* \* \*; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Finance Act, 1933.

Short title and extent

(2) It extends to <sup>4</sup>[all the Provinces of India] including <sup>5\*</sup> \* \* the Southal Parganas.

2. [Fixation of salt duty.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.

3 [Amendment of Schedule II to Act VIII of 1898.] Rep. by the Indian Tariff Act, 1934 (XXXII of 1934), s. 13 and Sch. III.

4. [Inland postage rates.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.

5. (1) Income-tax for the year beginning on the 1st day of April, 1933, shall be charged at the rates specified in Part I of the Second Schedule, increased in each case, except in the case of total incomes of less than two thousand rupees, by one-fourth of the amount of the rate.

Income tax and super-tax.

XI of 1922. (2) The rates of super-tax for the year beginning on the 1st day of April, 1933, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule, increased in each case by one-fourth of the amount of the rate.

XI of 1922. (3) For the purposes of the Second Schedule "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

XI of 1922. (4) For the purpose of assessing and collecting income-tax on total incomes of less than two thousand rupees the Indian Income-tax Act, 1922, shall be deemed to be subject to the adaptations set out in Part III of the Second Schedule.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1933; Pt. V, p. 41.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> The words and figures "to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary certain duties leviable under the Indian Tariff Act, 1894, to fix maximum rates of postage under the Indian Post Office Act, 1898" rep. by the Repealing and Amending Act, 1937 (20 of 1937), s. 3 and Sch. II.

<sup>3</sup> The words and figures "and further to amend the Indian Paper Currency Act, 1923" rep., *ibid.*

<sup>4</sup> Subs. by the A. O. 1948 for "the whole of British India".

<sup>5</sup> The words "British Baluchistan and" were rep. by the A. O. 1948.

6. [Amendment of section 19, Act X of 1923.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.

**SCHEDULE I.**—[Schedule to be inserted in the Indian Post Office Act, 1898.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.

## SCHEDULE II.

[See section 5.]

### PART I.

#### Rates of Income-tax.

	Rate.
<b>A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—</b>	
(1) When the total income is Rs. 1,000 or upwards, but is less than Rs. 1,500.	Two pies in the rupee: [Provided that for the purpose of any assessment to be made for the year ending 31st March, 1934 the rate of income-tax applicable to such part of the total income of an assessee as is derived from salaries or from interest on securities paid in the financial year 1932-33 shall be four pies in the rupee, and for the purposes of refunds under sub-section (1) or sub-section (3) of section 48 in respect of dividends declared in the year ending 31st March, 1933, or of payments made in the said year of interest on securities or salaries, the rate applicable to the total income of the person claiming refund shall be at the rate of four pies.]
(2) When the total income is Rs. 1,500 or upwards, but is less than Rs. 2,000.	Four pies in the rupee.
(3) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000.	Six pies in the rupee.
(4) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000.	Nine pies in the rupee.
(5) When the total income is Rs. 10,000 or upwards, but is less than Rs. 15,000.	One anna in the rupee.
(6) When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000.	One anna and four pies in the rupee.
(7) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000.	One anna and seven pies in the rupee.
(8) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000.	One anna and eleven pies in the rupee.
(9) When the total income is Rs. 40,000 or upwards but is less than Rs. 1,00,000.	Two annas and one pie in the rupee.
(10) When the total income is Rs. 1,00,000 or upwards.	Two annas and two pies in the rupee.
<b>B. In the case of every company and registered firm, whatever its total income.</b>	Two annas and two pies in the rupee.

## PART II.

*Rates of Super-tax.*

	Rate.
In respect of the excess over thirty thousand rupees of total income—	
(1) in the case of every company—	
(a) in respect of the first twenty thousand rupees of such excess.	<i>Nil.</i>
(b) for every rupee of the remainder of such excess.	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first forty-five thousand rupees of such excess.	<i>Nil.</i>
(ii) for every rupee of the next twenty-five thousand rupees of such excess.	One anna and three pies in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the first twenty thousand rupees of such excess.	Nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess.	One anna and three pies in the rupee.
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the next fifty thousand rupees of such excess.	One anna and nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess.	Two annas and three pies in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess.	Two annas and nine pies in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess.	Three annas and three pies in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess.	Three annas and nine pies in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess.	Four annas and three pies in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess.	Four annas and nine pies in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess.	Five annas and three pies in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess.	Five annas and nine pies in the rupee.
(x) for every rupee of the remainder of such excess.	Six annas and three pies in the rupee.



*Provincial Criminal Law Supplementing.* [1933 : Act IX.]

## PART III.

*Adaptations of the Indian Income-tax Act, 1922, to provide for the summary assessments of income-tax on total incomes of less than Rs. 2,000.*

1. The Income-tax Officer may, save where he has served a notice under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, make a summary assessment of the income of an assessee to the best of his judgment, and shall serve on the assessee a notice of demand in a form to be prescribed by the Central Board of Revenue; and such notice shall be deemed to be a notice of demand under section 29 of that Act.

2. Any assessee in respect of whom such summary assessment has been made may, within thirty days of receipt of the notice of demand, make an application to the Income-tax Officer for the cancellation or revision of the assessment, and the Income-tax Officer shall, after examining any accounts and documents and hearing any evidence which the assessee may produce, and such other evidence as the Income-tax Officer may require, determine, by order in writing, the amount of the tax, if any, payable by the assessee, and such determination shall be final:

Provided that, if any assessee making such application files therewith a return of his income under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, the application shall be deemed to be a return under that sub-section and shall be dealt with accordingly.

3. A copy of an order under paragraph 2 shall be served on the assessee to whom it relates and shall be deemed to be a notice of demand under section 29 of the Indian Income-tax Act, 1922.

4. The above procedure shall apply also to the assessment and collection during the financial year 1933-34 of incomes of Rs. 1,000 and upward and less than Rs. 2,000 which have escaped assessment in the financial year 1932-33.

## THE PROVINCIAL CRIMINAL LAW SUPPLEMENTING ACT, 1933.

Act No. IX of 1933.<sup>1</sup>

[13th April, 1933.]

An Act to supplement the provisions of the Bengal Public Security Act, 1932, the Bihar and Orissa Public Safety Act, 1933, the Bombay Special (Emergency) Powers Act, 1932, the United Provinces Special Powers Act, 1932, and the Punjab Criminal Law (Amendment) Act, 1932, for certain purposes.

**W**HEREAS it is expedient to supplement by legislation in the Indian Legislature the provisions of the Bengal Public Security Act, 1932, the

**Ben. Act  
XXII of  
1932.**

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 47.

**B. and O. Act I of 1933** Bihar and Orissa Public Safety Act, 1933, the Bombay Special (Emergency) Powers Act, 1932, the United Provinces Special Powers Act, 1932, **Bom. Act XVI of 1932** and the Punjab Criminal Law (Amendment) Act, 1932, for the purposes **U. P. Act. XIV of 1932** hereinafter appearing; It is hereby enacted as follows:—  
**Punjab Act III of 1932.**

1. This Act may be called the Provincial Criminal Law Supplementing **Short title.**  
Act, 1933.

2. (1) An appeal shall lie to the High Court of Judicature at Fort **Appeals.**  
William in Bengal from—

(a) any sentence passed by a Special Magistrate in any trial held under the Bengal Public Security Act, 1932, in the Presidency-town of Calcutta, and

**Ben. Act. XXII of 1932.**

(b) any sentence of imprisonment for a term exceeding 4 years passed by a Special Magistrate in any trial under the said Act held outside the Presidency-town of Calcutta.

(2) An appeal under sub section (1) shall be presented within thirty days from the date of the sentence, and shall be disposed of by the High Court in the manner provided in Chapter XXXI of the Code of Criminal Procedure 1898, for the hearing of appeals.

**V of 1898.**

3. Section 15 of the Bihar and Orissa Public Safety Act, 1933, section 29 of the Bombay Special (Emergency) Powers Act, 1932, and section 14 of the United Provinces Special Powers Act, 1932, shall have effect as if these sections had been enacted by the Indian Legislature

**Effect of certain sections in provincial Acts.**

**Ben. Act XXII of 1932.**

4. Except as provided in the Bengal Public Security Act, 1932, as supplemented by this Act, no proceeding or order purporting to be taken or made under the Bengal Public Security Act, 1932, shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said Act or against any person for any loss or damage caused to or in respect of any property whereof possession has been taken under the said Act.

**Jurisdiction barred.**

5. The powers conferred by section 491 of the Code of Criminal Procedure, 1898, shall not be exercised in respect of any person arrested, or committed to or detained in custody under the provisions of the Punjab Criminal Law (Amendment) Act, 1932.

**f 1898.**

**jab Act of 1932**

6. [Certain powers of High Court not affected.] Rep. by the A. O. 1937.

**Bar of issue of directions of the nature of a habeas corpus.**

<sup>1</sup> This section has been declared to be in force in the Southal Parganas by notification under the Southal Parganas Settlement Regulation (3 of 1872), s. 3 (3) (a): see B. and C. Gazette, 1934, Pt. II, p. 232.

## THE INDIAN WIRELESS TELEGRAPHY ACT, 1933.

Act No. XVII of 1933.<sup>1</sup>

[11th September, 1933.]

## An Act to regulate the possession of wireless telegraphy apparatus.

**W**HEREAS it is expedient to regulate the possession of wireless telegraphy apparatus in <sup>2</sup>[the Provinces], It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Wireless Telegraphy Act, 1933. Short title,  
extent and  
commence-  
ment.
- (2) It extends to <sup>3</sup>[all the Provinces of India], including <sup>4</sup>\* \* \*
- the Sonthal Parganas.
- (3) It shall come into force on such date<sup>5</sup> as the <sup>6</sup>[Central Government] may, by notification in the <sup>7</sup>[Official Gazette], appoint.

2. In this Act, unless there is anything repugnant in the subject Definitions.  
or context,—

- (1) "wireless communication" means the making, transmitting or receiving of telegraphic, telephonic or other communications by means of electricity or magnetism without the use of wires or other continuous electrical conductors between the transmitting and the receiving apparatus;
- (2) "wireless telegraphy apparatus" means any apparatus, appliance, instrument or material used or capable of use in wireless communication, and includes any article determined by rule made under section 10 to be wireless telegraphy apparatus, but does not include any such apparatus, appliance, instrument or material commonly used for other electrical purposes, unless it has been specially designed or adapted for wireless communication or forms part of some apparatus, appliance, instrument or material specially so designed or adapted, nor any article determined by rule made under section 10 not to be wireless telegraphy apparatus; and
- (3) "prescribed" means prescribed by rules made under section 10.

3. Save as provided by section 4, no person shall possess wireless telegraphy apparatus except under and in accordance with a license issued under this Act.

**Prohibition  
of possession  
of wireless  
telegraphy  
apparatus  
without  
licence.**

4. The <sup>6</sup>[Central Government] may by rules made under this Act exempt any person or any class of persons from the provisions of this Act either generally or subject to prescribed conditions, or in respect of specified wireless telegraphy apparatus.

**Power of  
Central  
Government  
to exempt  
persons from  
provisions of  
the Act.**

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 8.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Subs. by the A. O. 1948 for "British India".

<sup>3</sup> Subs. by the A. O. 1948 for "the whole of British India".

<sup>4</sup> The words "British Baluchistan and" were rep. by the A. O. 1948.

<sup>5</sup> 1st January, 1934: see Gazette of India, 1933, Pt. I, p. 1181.

<sup>6</sup> Subs. by the A. O. 1937 for "G. G. in C."

<sup>7</sup> Subs. by the A. O. 1937 for "Gazette of India."

XIII of 1885,

5. The telegraph authority constituted under the Indian Telegraph Act, 1885, shall be the authority competent to issue licenses to possess wireless telegraphy apparatus under this Act, and may issue licenses in such manner, on such conditions and subject to such payments as may be prescribed.

Licenses.

6. (1) Whoever possesses any wireless telegraphy apparatus in contravention of the provisions of section 3 shall be punished, in the case of the first offence, with fine which may extend to one hundred rupees, and, in the case of a second or subsequent offence, with fine which may extend to two hundred and fifty rupees.

Offence and penalty.

(2) For the purposes of this section a Court may presume that a person possesses wireless telegraphy apparatus if such apparatus is under his ostensible charge, or is located in any premises or place over which he has effective control.

(3) If in the trial of an offence under this section the accused is convicted the Court shall decide whether any apparatus in respect of which an offence has been committed should be confiscated, and, if it so decides, may order confiscation accordingly.

7. (1) A Presidency Magistrate, or a Magistrate of the first class or a Magistrate of the second class specially empowered by the [Central Government] in this behalf, may issue a warrant for the search, at any time between sunrise and sunset, of any building, vessel or place in which he has reason to believe that any wireless telegraphy apparatus, in respect of which an offence punishable under section 6 has been committed, is kept or concealed.

Power of search.

(2) The officer to whom a search warrant under sub-section (1) is addressed may enter into any building, vessel or place mentioned in the warrant and seize any wireless telegraphy apparatus in respect of which he had reason to believe an offence under section 6 has been committed.

8. All wireless telegraphy apparatus confiscated under the provisions of sub-section (3) of section 6, and all wireless telegraphy apparatus having no ostensible owner shall be the property of the [Central Government].

Apparatus confiscated or having no Power to be property of Central Government.

9. [Power of Court to direct payment of fines to prescribed authority.] Rep. by the A.O. 1937 and by the Repealing and Amending Act, 1940 (32 of 1940), s. 2 and Sch. I.

10. (1) The [Central Government] may, by notification in the [Official Gazette], make rules<sup>4</sup> for the purpose of carrying into effect the provisions of this Act.

Power of Central Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(i) determining that any article or class of article shall be or shall not be wireless telegraphy apparatus for the purposes of this Act;

<sup>1</sup> Subs. by the A. O. 1937 for "L. G."

<sup>2</sup> Subs. by the A. O. 1937 for "G. G. in C."

<sup>3</sup> Subs. by the A. O. 1937 for "Gazette of India".

<sup>4</sup> For the Indian Wireless Telegraphy (Possession) Rules, 1938, made under this section, see Gazette of India, 1938, Pt. I, p. 1191.

- (ii) the exemption of persons or classes of persons under section 4 from the provisions of this Act;
- (iii) the manner of and the conditions governing the issue, renewal suspension and cancellation of licenses, the form of licenses and the payments to be made for the issue and renewal of licenses ;
- (iv) the maintenance of records containing details of the acquisition and disposal by sale or otherwise of wireless telegraphy apparatus possessed by dealers in wireless telegraphy apparatus;
- (v) the conditions governing the sale of wireless telegraphy apparatus by dealers in and manufacturers of such apparatus, <sup>1\*</sup>

1\* \* \* \* \*

(3) In making a rule under this section the <sup>2</sup>[Central Government] may direct that a breach of it shall be punishable with fine which may extend to one hundred rupees.

Saving of  
Indian  
Telegraph  
Act, 1885.

11. Nothing in this Act contained shall authorise the doing of any thing prohibited under the Indian Telegraph Act, 1885, and no license XIII of 1885 issued under this Act shall authorise any person to do anything for the doing of which a license or permission under the Indian Telegraph Act, 1885, is necessary.

## THE MURSHIDABAD ESTATE ADMINISTRATION ACT, 1933.

### CONTENTS.

#### SECTIONS.

1. Short title and extent.
2. Definitions.
3. Appointment of Manager.
4. Effect of order under section 3.
5. Suits and appeals during management.
6. Manager to receive rents, issues and profits.
7. Application by Manager of sums received.
8. Notice to claimants.
9. Presentation of claims.
10. Debt not duly notified to be barred.
11. Determination of debts.
12. Power to inquire into consideration for leases, etc.
13. Appeals to Board of Revenue.
14. Scheme for settlement of debts.
15. Power to call for further particulars.
16. Power to summon witnesses.
17. Investigation to be deemed a judicial proceeding.
18. Power to order production of accounts, papers, etc., and evidence of title.

<sup>1</sup>The word "and" and clause (vi) were rep. by the Repealing and Amending Act, 1946 (32 of 1946), s. 2 and Sch. I.

<sup>2</sup> Subs. by the A. O. 1937 for "G. G. in C."

## SELECTIONS.

19. Powers of Manager for realisation of rents, etc.
20. Power to lease.
21. Power of Manager to contract and take action for the benefit of the estate.
22. Powers of supervision and control.
23. Manager to be deemed a public servant.
24. Recovery of fines.
25. Bar of suits, etc., against certain persons.
26. Power of Provincial Government to make orders.
27. Effect of withdrawal from entry by Provincial Government.
28. Power to make rules.

Act No. XXIII of 1933.<sup>1</sup>

[21st September, 1933.]

An Act to provide for the appointment of a Manager on behalf of the Secretary of State of the properties of the Nawab Bahadur of Murshidabad and to define the powers and duties of the Manager.

XV of 1891. **W**HEREAS the Murshidabad Act, 1891, confirming and giving effect to an Indenture between the Secretary of State and the Nawab Bahadur of Murshidabad Amir-ul-Omrah, provides that in case the said Nawab Bahadur or any of his lineal heirs male successors to the titles shall contravene any of the terms of the said Indenture or shall disable himself from duly maintaining the dignity of his position and station it shall be lawful for the Secretary of State for the time being to enter into and upon the immovable properties mentioned in the Indenture and to exercise certain powers therein specified in the manner therein set forth;

26 Geo. 5,  
c. 2.

<sup>2</sup>[AND WHEREAS by virtue of section 177 of the Government of India Act, 1935, the said indenture is, as from the commencement<sup>3</sup> of Part III of that Act, to have effect as if it had been made on behalf of the Province of Bengal and references therein to the Secretary of State in Council are to be construed accordingly ;]

<sup>4</sup>[AND WHEREAS by virtue of paragraph (2) of Article 8 of the Indian Independence (Rights, Property and Liabilities) Order, 1947, the said indenture is, as from the date of establishment of the Dominion of India, to have effect as if it had been made on behalf of the Province of West Bengal, and all rights and liabilities which have accrued and may accrue under the said indenture, to the extent to which they would have been rights or liabilities of the Province of Bengal, are the rights and liabilities of the Province of West Bengal.]

AND WHEREAS it is expedient to make further provision for the due exercise of <sup>5</sup>[the said] powers by the <sup>6</sup>['Provincial' Government of <sup>7</sup>[West

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1932, Pt. V, p. 224; and for Report of Select Committee, see Gazette of India, 1933, Pt. V, p. 138.

<sup>2</sup> Ins. by the A. O. 1937.

<sup>3</sup> I.e., the 1st April, 1937.

<sup>4</sup> Ins. by the A. O. 1948.

<sup>5</sup> Subs. by the A. O. 1937 for "these".

<sup>6</sup> Subs. by the A. O. 1937 for "Secretary of State".

<sup>7</sup> Subs. by the A.O. 1948 for "Bengal".

Bengal]] by the appointment of a Manager who shall on behalf of the Provincial Government of <sup>2</sup>[West Bengal]] exercise the powers aforesaid, and by defining the duties and powers of such Manager, and the manner in which the rents, issues and profits of the immovable properties of the estate and the monthly sum of Rs. 19,166-10-8 payable from the Government treasury at Berhampore in the district of Murshidabad in <sup>2</sup>[West Bengal] shall be applied;

AND WHEREAS it is further expedient to afford to the Nawab Bahadur protection against the disabilities to which he is exposed by reason of his embarrassed circumstances and to prevent further increase in his debts and to provide means for such repayments to his creditors as are compatible with the payment to the Nawab Bahadur of a sum sufficient for the maintenance of his position and dignity ;

It is hereby enacted as follows :—

**Short title and extent.**

1. (1) This Act may be called the Murshidabad Estate Administration Act, 1933.

(2) It extends to <sup>3</sup>[all the Provinces of India] inclusive of \* \* \* the Sonthal Parganas.

**Definitions.**

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “ immoveable properties of the estate ” means the properties contained in the Schedules of immovable property annexed to the Indenture included in and confirmed by the Murshidabad Act, 1891, with any additional immoveable property added thereto under sub-section (1) of section 3 of that Act, and includes all immoveable property acquired under the provisions of section 32 of the Land Acquisition Act, 1894; XV of 1891.

(2) “ issues and profits of the immoveable properties of the estate ” includes all money awarded under the Land Acquisition Act, 1894, as compensation for the acquisition of any of the immoveable properties of the estate together with interest thereon; I of 1894.

(3) “ Manager ” means the officer appointed under section 3;

(4) “ Nawab Bahadur ” means the Nawab Bahadur of Murshidabad for the time being;

5\* \* \* \*

(6) “ Board of Revenue ” means the Board of Revenue, <sup>2</sup>[West Bengal];

(7) “ prescribed ” means provided for by this Act or by rules made under section 28.

**Appointment of Manager.**

3. <sup>6</sup>[The Provincial Government of <sup>2</sup>[West Bengal] (hereinafter in this Act referred to as “the Provincial Government”)] may, at any time after <sup>7</sup>[the Provincial Government] has entered upon the immovable properties of the estate in accordance with the provisions of the Murshidabad Act, 1891, XV of 1891.

<sup>1</sup> Subs. by the A. O. 1937 for “Secretary of State”.

<sup>2</sup> Subs. by the A. O. 1948 for “Bengal”.

<sup>3</sup> Subs. by the A.O. 1948 for “the whole of British India”.

<sup>4</sup> The words “British Baluchistan and” were rep. by the A.O. 1918.

<sup>5</sup> (1, (i) rep. by the A. O. 1937

<sup>6</sup> Subs. by the A.O. 1937 for “The I.G.”

<sup>7</sup> Subs. by the A. O. 1937 for “the Secretary of State”.

by an order published in the <sup>1</sup>[Official Gazette] appoint an officer for the management on behalf of <sup>2</sup>[the Provincial Government] of the whole or any portion of these properties and of the rents, issues and profits thereof and for the reception and application of the monthly sum of Rs. 19,166-10-8 payable from the Government Treasury at Berhampore in the district of Murshidabad in <sup>3</sup>[West Bengal]:

Provided that the management shall cease from such date as may be notified by the <sup>4</sup>[Provincial Government] in the <sup>1</sup>[Official Gazette] as the date of withdrawal by <sup>2</sup>[the Provincial Government] from entry upon the immoveable properties of the estate:

Provided also that in the event of the death of a Nawab Bahadur the management shall not continue for more than sixty days after the date of his death.

4. On the publication of an order for the appointment of a Manager under section 3, the following consequences shall ensue:— Effect of order under section 3.

*first*, all proceedings which may then be pending in any Civil Court in respect of any debts or liabilities to which the Nawab Bahadur may be subject shall be barred, and all processes, executions and attachments for or in respect of such debts and liabilities shall become null and void;

*secondly*, so long as such management continues, no suit or proceeding shall lie against the Nawab Bahadur, <sup>5</sup>\* \* \* <sup>6</sup>[or the Province of <sup>3</sup>[West Bengal]] or the Manager, in respect of any debt or liability to which the Nawab Bahadur is subject, nor shall the Nawab Bahadur be liable to arrest for or in respect of the debts and liabilities to which he was at the time of such publication subject or in execution of any decree obtained before such publication nor shall his moveable property be liable to attachment or sale, under process of any Court for or in respect of such debts and liabilities;

*thirdly*, so long as such management continues—

- (a) the Nawab Bahadur shall be incompetent to mortgage, charge, lease, settle or alienate the immoveable properties of the estate, or to grant valid receipts for the rents and profits arising or accruing therefrom;
- (b) such property shall be exempt from attachment or sale under process of any Court; and
- (c) the Nawab Bahadur shall be incapable of entering into any contract which may involve him in pecuniary liability; and

*fourthly*, any amount awarded, before the entry <sup>7</sup>[of the Provincial Government] upon the immoveable properties of the estate, under the Land Acquisition Act, 1894, by way of compensation for

I of 1894.

<sup>1</sup> Subs. by the A. O. 1937 for "Calcutta Gazette".

<sup>2</sup> Subs. by the A. O. 1937 for "the Secretary of State".

<sup>3</sup> Subs. by the A. O. 1948 for "Bengal".

<sup>4</sup> Subs. by the A. O. 1937 for "L. G."

<sup>5</sup> The words "or the Secretary of State", rep. by the A. O. 1948.

<sup>6</sup> Ins. by the A. O. 1937.

<sup>7</sup> Subs. by the A. O. 1937 for "of the Secretary of State".



immoveable properties of the estate acquired under that Act, if the amount has been invested in securities under section 32 of that Act or is deposited in Court pending such investment in land or securities, shall, together with all interest and other proceeds thereof not already paid to any person under the provisions of any law, be deliverable to the Manager on behalf <sup>1</sup>[of the Provincial Government] to be disposed of in such manner as the <sup>2</sup>[Provincial Government] may think fit.

Suits and  
appeals  
during  
management.

5. So long as the appointment of the Manager continues—

- (1) in every suit or appeal to which <sup>3</sup>\* \* \* <sup>4</sup>\* the Province of <sup>5</sup>[West Bengal] in possession is a party the Manager shall be named as <sup>6</sup>[its representative] for the purpose of such suit or appeal ;
- (2) in every pending suit or appeal concerning the properties under management <sup>7</sup>[the Province of <sup>5</sup>[West Bengal]] in possession shall be a party in place of the Nawab Bahadur and the Manager shall be named as the representative of <sup>7</sup>[the Province of <sup>5</sup>[West Bengal]] in possession for the purpose of the suit or appeal; and no application in any such suit or appeal shall be made to the Court on behalf of <sup>7</sup>[the Province of <sup>5</sup>[West Bengal]] in possession except by the Manager;
- (3) the Court upon application by the Manager or by any party to the suit may order that the plaint or memorandum of appeal be amended so as to conform with the requirements of clause (1) or that the Manager be named as the representative of the <sup>2</sup>[Province of West Bengal] in possession as required by clause (2) of this section.

Manager to  
receive rents,  
issues and  
profits

6. (1) The Manager shall receive and recover all rents, issues and profits due in respect of the immoveable properties of the estate, and shall upon receiving such rents, issues and profits give receipts therefor.

(2) The Manager shall receive the monthly sum of Rs. 19,166-10-8 payable from the Government Treasury at Berhampore in the district of Murshidabad in <sup>5</sup>[West Bengal] and shall give receipts therefor.

Application  
by Manager  
of sums  
received.

7. (1) From the sums received under sub-sections (1) and (2) of section 6, the Manager shall pay—

*first*, to the Nawab Bahadur such monthly sum, not being in any case less than Rs. 9,583-5-4, as the <sup>8</sup>[Provincial Government] may fix in this behalf;

<sup>9</sup>*secondly*, the allowances, if any, payable under section 3 of the Murshidabad Act, 1946];

<sup>1</sup> Subs. by the A. O. 1937 for "of the Secretary of State".

<sup>2</sup> Subs. by the A. O. 1948 for "Secretary of State".

<sup>3</sup> The words "the Secretary of State or" rep. by the A. O. 1948.

<sup>4</sup> Ins. by the A. O. 1937.

<sup>5</sup> Subs. by the A. O. 1948 for "Bengal".

<sup>6</sup> Subs. by the A.O. 1948 for "his representative".

<sup>7</sup> Subs. by the A. O. 1937 for "the Secretary of State".

<sup>8</sup> Subs. by the A. O. 1937 for "L. G."

<sup>9</sup> Ins. by s. 5 of the Murshidabad Act, 1946 (Bengal Act 15 of 1946).

<sup>1</sup>[*thirdly*], the Government revenue, cesses, rates and taxes and all debts and liabilities for the time being due or incurred to Government or to any local authority ;

<sup>2</sup>[*fourthly*], in the case of property held by the Nawab Bahadur as tenant, the rent and cess due to the superior landlord in respect of the said property ;

<sup>3</sup>[*fifthly*], the cost of such repairs and improvements of the immoveable properties of the estate as appear necessary to the Manager and are approved by the Board of Revenue ;

and shall apply the residue to the discharge of the costs of the management, to the payment of expenditure incurred in litigation and to the settlement in accordance with the scheme approved by the Board of Revenue under section 14 of such debts and liabilities of the Nawab Bahadur as may be established under the provisions of this Act.

(2) Notwithstanding anything contained in sub-section (1), it shall be lawful for the Manager to pay out of the sums received under sub-sections (1) and (2) of section 6 any sum required to meet such expenditure on any other object or for any other purpose as the <sup>4</sup>[Provincial Government] may from time to time sanction.

8. As soon as may be after the publication of the order for the appointment of a Manager under section 3 the Manager shall publish in the prescribed manner a notice in English and Bengali calling upon all persons having claims against the Nawab Bahadur to notify such claims in writing to the Manager within six months from the date of the notice.

Notice to claimants.

9. Every such claimant shall, along with his claim, present to the Manager full particulars thereof, together with all documents on which he relies in support thereof, and the Manager may refuse to receive in evidence on the claimant's behalf at the investigation of the claim any document not so presented.

Presentation of claims.

10. Every debt or liability, except debts due or liabilities incurred to the Crown] or to any local authority and rent due to a superior landlord from the Nawab Bahadur as tenant of any property, which is not duly notified to the Manager within the time and in the manner mentioned in sections 8 and 9 shall be barred :

Debt not duly notified to be barred.

Provided that if the Manager is satisfied that the claimant was for reasonable cause unable to comply with the provisions of sections 8 and 9, the Manager may admit his claim within a further period of six months from the expiration of the period of six months specified in section 8.

11. The Manager shall in the prescribed manner determine the amount of the principal of all debts and liabilities not barred under section 10 justly due to the several creditors of the Nawab Bahadur and to persons holding

Determination of debts.

<sup>1</sup> Subs. by s. 5 of the Murshidabad Act, 1946 (Bengal Act 15 of 1946), for "*secondly*".

<sup>2</sup> Subs., *ibid.*, for "*thirdly*".

<sup>3</sup> Subs., *ibid.*, for "*fourthly*".

<sup>4</sup> Subs. by the A. O. 1937 for "Secretary of State".

<sup>5</sup> Subs. by the A. O. 1937 for "Govt."

mortgages, charges or liens on the property of the Nawab Bahadur, and shall determine in like manner the interest, if any, due at the date of such determination in respect of such debts and liabilities and may reduce the rates of interest charged as appears to him just and proper.

**Power to inquire into consideration for leases. ect,**

12. The Manager may inquire into the sufficiency of the consideration for which any lease, settlement, grant, mortgage, charge or lien was given and whether it was given in contravention of the conditions of the Murshidabad Act, 1891, and if satisfied that the consideration was insufficient or that such lease, settlement, grant, mortgage, charge or lien was given in contravention of the said Act may, by order in writing, set aside or modify such lease, settlement, grant, mortgage, charge or lien; and any such order, subject to the appeal provided in section 13, shall have the force of a decree of a competent Civil Court and be enforceable as such.

XV of

**Appeals to Board of Revenue.**

13. (1) An appeal shall lie to the Board of Revenue against any order by the Manager—

- (a) refusing to receive a document under section 9; or
- (b) refusing to admit a claim under the proviso to section 10; or
- (c) determining the amount of a debt or liability or of interest thereon, or reducing the rate of interest, under section 11; or
- (d) setting aside or modifying a lease, settlement, grant, mortgage charge or lien under section 12.

(2) If no such appeal is preferred within six weeks from the date of the order, the decision of the Manager shall, subject to the provisions of section 22, be final.

**Scheme for settlement of debts.**

14. (1) When the amount due in respect of the debts and liabilities mentioned in section 11 has been finally determined, the Manager shall prepare and submit to the Board of Revenue a schedule of such debts and liabilities, and a scheme for the settlement thereof in whole or in part out of the residue referred to in section 7 annually available during the lifetime of the Nawab Bahadur; and the Board of Revenue may approve the scheme without modification or subject to such modification as it deems expedient.

(2) The scheme shall provide for payment in full, as soon as may be, of—

- (a) first, arrears of wages due to servants of the Nawab Bahadur, determined in accordance with the forgoing provisions, and
- (b) secondly, claims of each creditor whose claims in the aggregate do not exceed five hundred rupees, as so determined;

and the scheme shall further provide that any balance left after meeting the above claims and each annual residue thereafter shall be distributed rateably among the other creditors of the Nawab Bahadur in payment of their claims, as so determined.

**Power to call for further particulars.**

15. The Manager may from time to time call for further and more detailed particulars of any claim preferred before him under this Act and may

at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

16. The Manager may for the purpose of any investigation under this Act summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means and as far as possible in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.

**Power to  
summon  
witnesses.**

V of 1908.

17. Every investigation conducted by the Manager with reference to any claim preferred before him under this Act, or to any matter connected with such claim, shall be deemed to be a judicial proceeding within the meaning of the Indian Penal Code; and every statement made by any person examined by or before the Manager with reference to any such investigation, whether upon oath or otherwise, shall be deemed to be evidence within the meaning of the said Code.

**Investigation  
to be deemed  
a judicial  
proceeding**

XI.V of 1860

18. (1) The Collector of Murshidabad may on the application of the Manager order all persons who are or were in the employ of the estate of the Nawab Bahadur to attend before him; and may order any person to deliver up any accounts, papers or moveable property belonging to the estate or any accounts or papers relating to the immoveable property of the estate or to any other property of the estate which the Manager has reason to believe are in such person's possession or control; and may order all holders of tenures or under-tenures on any such property to produce their title to such tenures or under-tenures.

**Power to  
order pro-  
duction of  
accounts,  
papers, etc.,  
and evidence  
of title.**

(2) Any person who refuses to comply with an order under sub-section (1) may be punished by the Collector of Murshidabad with fine not exceeding five hundred rupees:

Provided that an appeal shall lie to the Board of Revenue against any order of fine passed by the Collector under sub-section (2).

19. (1) The Manager shall have, for the purpose of realising and recovering the rents, issues and profits of the immoveable properties of the estate, the same powers as the Nawab Bahadur would have had for such purpose had the <sup>1</sup>[Provincial Government] not entered into the said properties, and all arrears of rent and all demands recoverable as rent, and all interest due on such arrears or demands shall together with all costs incurred for realising the same be recoverable as public demands.

**Powers of  
Manager for  
realisation of  
rents, etc.**

(2) If such properties or any part thereof be in the possession of any mortgagee or conditional vendee, the Manager may apply to the Collector within whose jurisdiction the property is situated, and the Collector shall cause the same to be delivered to the Manager as if a decree therefor had been made in his favour, but without prejudice to the mortgagee or vendee preferring his claim under the provisions elsewhere contained in this Act.

(3) If such properties or any part thereof be in possession of a Receiver appointed by a Court, the Manager may apply to the Court, and the Court

<sup>1</sup> Subs. by the A. O. 1937 for "Secretary of State".

shall cause the same to be delivered to the Manager together with any receipts which may be in the hands of the Receiver or the Court at the time of the application.

Power to  
lease.

20. The Manager may, subject to the prescribed conditions, make settlement of all or any of the immoveable properties of the estate and may for this purpose execute any lease or counterpart of a lease :

Provided that, unless the settlement is of a kind authorised by rule made under section 28, its terms and conditions shall have been previously approved by the <sup>1</sup>[Provincial Government].

Power of  
Manager to  
contract and  
take action  
for the  
benefit of the  
estate.

21. The Manager may enter into any contract or take any action which in his opinion is necessary for the proper care and management of the immoveable properties of the estate and of the rents, issues and profits thereof or for the maintenance of the position and dignity of the Nawab Bahadur and which is not inconsistent with any provision of this Act or with any rule made under section 28 :

Provided that if he is not empowered by any other provision of this Act or by any rule made under section 28 to enter on such contract or to take such action he shall obtain the previous sanction of the Board of Revenue before entering upon the contract or taking the action.

Powers of  
supervision  
and control.

22. (1) All orders or proceedings of the Manager in the exercise of his functions under this Act shall be subject to the supervision and control of the Board of Revenue.

(2) All orders or proceedings of the Board of Revenue under this Act shall be subject to the supervision and control of the <sup>1</sup>[Provincial Government].

(3) The supervising authority in each case may of its own motion review and if it thinks fit revise, modify or reverse any order or proceeding.

Manager to  
be deemed a  
public  
servant.

23. The Manager shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

XLV of 18

Recovery of  
fines.

24. Any fine imposed under this Act shall be recoverable as a public demand.

Bar of suits,  
etc., against  
certain  
persons.

25. No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

Power of  
Provincial  
Government  
to make  
orders.

26. If at the time of the withdrawal of the <sup>2</sup>[Provincial Government] from entry upon the immoveable properties of the estate, any difficulty arises in connection with the restoration to the Nawab Bahadur or to his successor of the properties and rights possessed and exercised by the <sup>2</sup>[Provincial Government], the <sup>1</sup>[Provincial Government] may by order authorise the doing of any matter or thing which appears to it necessary to facilitate such restoration.

Effect of  
withdrawal  
from entry

27. Notwithstanding anything contained elsewhere in this or any other Act, the withdrawal by the <sup>2</sup>[Provincial Government] from entry upon the

<sup>1</sup> Subs. by the A.O. 1937 for "L.G."

<sup>2</sup> Subs. by the A.O. 1937 for "Secretary of State".

immoveable properties of the estate shall not have the effect of reviving any of the proceedings referred to in clause *first* of section 4 if the debt or liability in respect of which such proceedings were instituted is barred under section 10. by Provincial Government.

Nothing in section 4 shall bar the revival after such withdrawal of any other of the proceedings referred to in the said clause :

Provided that no Court shall entertain any suit or proceeding against the Nawab Bahadur in which the amount claimed is in excess of the amount determined under section 11, 13 or 22, as the case may be, together with any further interest due thereon, or in which interest is claimed at a rate higher than the rate determined as just and proper under those sections.

28. (1) The Board of Revenue may, with the previous sanction of the <sup>1</sup>[Provincial Government], make rules for the purpose of carrying into effect all or any of the provisions of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

- (a) the security to be required from subordinate officers under this Act;
- (b) the procedure to be followed by the Manager in the discharge of his functions under this Act, the accounts which shall be kept by him, and the manner in which such accounts shall be audited;
- (c) the terms, conditions and limitations under which leases may be granted;
- (d) the notices to be given under this Act and the manner of publication of such notices;
- (e) the procedure to be followed by claimants in presenting claims, and by the Manager in the investigation of such claims;
- (f) the procedure to be followed in determining under section 11 the debts and liabilities due to creditors and other persons;
- (g) the allowance of interest on the principal of each of the debts and liabilities as determined under section 11 from the date on which it was incurred to the date of the determination and on the aggregate amount of such debts and liabilities from the date of the determination to the date of payment;
- (h) the preparation of the schedule of debts and liabilities and of the scheme referred to in section 14 and the order of payment of such debts and liabilities;
- (i) the powers of the Manager to make or sanction settlements; and
- (j) the procedure to be followed in appeals under this Act.

<sup>1</sup> Subs. by the A.O. 1937 for "L.G."

## THE INDIAN MEDICAL COUNCIL ACT, 1933.

## CONTENTS.

## SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Constitution and composition of the Council.
4. Mode of election.
5. Restrictions of nominations and elections.
6. Incorporation of the Council.
7. Term of office.
8. Meetings of the Council.
9. Officers, Committees and servants of the Council.
10. The Executive Committee.
11. Recognition of medical qualifications granted by medical institutions in the Provinces of India.
12. Non-Indian qualifications in Second Schedule to be recognised.
13. Transitory arrangements for modifying the Second Schedule.
14. Permanent arrangements for modifying the Second Schedule.
15. Power to require information as to courses of study and examinations.
16. Inspection of examinations.
- 16A. Visitors at examinations.
17. Withdrawal of recognition.
18. Power to make Regulations.
19. Information to be furnished by Council and publication thereof.
20. Commissions of Inquiry.

THE FIRST SCHEDULE.—RECOGNISED MEDICAL QUALIFICATIONS GRANTED BY MEDICAL INSTITUTIONS IN THE PROVINCES OF INDIA.

THE SECOND SCHEDULE.—RECOGNISED MEDICAL QUALIFICATIONS GRANTED BY MEDICAL INSTITUTIONS OUTSIDE THE PROVINCES OF INDIA.

Act No. XXVII of 1933.<sup>1</sup>

[23rd September, 1933.]

### An Act to constitute a Medical Council in India

WHEREAS it is expedient to constitute a Medical Council in India in order to establish a uniform minimum standard of higher qualifications in medicine for all provinces; It is hereby enacted as follows:—

**Short title,  
extent and  
commence-  
ment.**

1. (1) This Act may be called the Indian Medical Council Act, 1933.
- (2) It extends to <sup>2</sup>[all the Provinces of India].

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1932, Pt. V, p. 150 and for Report of Select Committee, see Gazette of India, 1933, Pt. V, pp. 115 to 117.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and applied to Sonthal Parganas District by the Sonthal Parganas (Second) Laws Regulation, 1945 (Bihar Regulation 5 of 1942).

<sup>2</sup> Subs. by the A.O. 1948 for "the whole of British India".

(3) It shall come into force on such date<sup>1</sup> as the <sup>2</sup>[Central Government] may, by notification in the <sup>3</sup>[Official Gazette], appoint.

2. In this Act, unless there is anything repugnant in the subject or con- definitions.  
text,—

<sup>4</sup>(a) “<sup>5</sup>[Indian University]” means any university <sup>6</sup>\* \* \*  
established by an Indian law and having a medical faculty;

(b) “the Council” means the Medical Council of India constituted under this Act;

(c) “medical institution” means any institution, within or without <sup>7</sup>[the Provinces], which grants degrees, diplomas or licences in medicine ;

(d) “medicine” means modern scientific medicine and includes surgery and obstetrics, but does not include veterinary medicine and surgery ;

(e) “Provincial Medical Council” means a medical council constituted under an Act of <sup>8</sup>[a Local or Provincial Legislature] to regulate the registration of medical practitioners ;

(f) “Provincial Medical Register ” means a register maintained under an Act of <sup>8</sup>[a Local or Provincial Legislature] to regulate the registration of medical practitioners ;

(g) “recognised medical qualification ” means any of the medical qualifications included in the First and Second Schedules; and

(h) “Regulation ” means a Regulation made under section 18.

3. (1) The <sup>2</sup>[Central Government] shall cause to be constituted a Council consisting of the following members, namely:—

**Constitution  
and compos-  
ition of the  
Council.**

(a) one member from each Governor's Province, to be nominated by <sup>9</sup>[the Central Government];

(b) one member from each <sup>10</sup>\* Indian University, to be elected by the members of the Senate of the University (or, <sup>11</sup>[in case the University has no Senate, by the members of the Court]  
<sup>12</sup>\* \* \* ) from amongst the members of the medical faculty of the university <sup>13</sup>\* \* \*;

<sup>1</sup> 1st November, 1933: see Gazette of India, 1933, Pt. I, p. 1093.

<sup>2</sup> Subs. by the A.O. 1937 for “G. G. in C.”

<sup>3</sup> Subs. by the A.O. 1937 for “Gazette of India”.

<sup>4</sup> Subs. by the A.O. 1937 for the original cl. (a) as amended by the Indian Medical Council (Amendment) Act, 1934 (5 of 1934), s. 2.

<sup>5</sup> Subs. by the A.O. 1948 for “British Indian University”.

<sup>6</sup> The words “in British India” rep. by the A.O. 1948.

<sup>7</sup> Subs. by the A.O. 1948 for “British India”.

<sup>8</sup> Subs. by the A.O. 1937 for “a local legislature”.

<sup>9</sup> Subs. by the A.O. 1937 “the L.G. of the Province”.

<sup>10</sup> The word “British” rep. by the A.O. 1948.

<sup>11</sup> Subs. by s. 2 of the Indian Medical Council (Amendment) Act, 1947 (36 of 1947), for “in the case of the University of Lucknow, the Court”.

<sup>12</sup> The words, “and in the case of the University of Rangoon, the Council” rep. by the A.O. 1937.

<sup>13</sup> Certain words ins. by the Indian Medical Council (Amendment) Act, 1934 (5 of 1934), s. 3, rep. by the A.O. 1937.



(c) one member from each Province where a Provincial Medical Register is maintained, to be elected from amongst themselves by persons enrolled on the Register who possess recognised medical qualifications or medical qualifications granted by <sup>1</sup>[an Indian University]; and

(d) <sup>2</sup>[four members] to be nominated by the <sup>3</sup>[Central Government].

(2) The President of the Council shall be elected by the members of the Council from amongst themselves:

Provided that for four years from the first constitution of the Council the President shall be a person nominated by the <sup>3</sup>[Central Government], who shall hold office during the pleasure of the <sup>3</sup>[Central Government] and, where he is not already a member, shall be a member of the Council in addition to the members prescribed in sub-section (1).

(3) No act done by the Council shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Council.

**Mode of election.**

4. (1) An election under clause (b) or clause (c) of sub-section (1) of section 3 shall be conducted by the <sup>4</sup>[Central Government], in such manner as it may think fit <sup>5</sup>\* \* \*.

(2) Where any dispute arises regarding any election to the Council, it shall be referred to the <sup>4</sup>[Central Government] whose decision shall be final

**Restrictions of nominations and elections.**

5. (1) No person shall be eligible for nomination or election under clause (a) or (b) of sub-section (1) of section 3 unless he possesses a recognised medical qualification or a medical qualification granted by <sup>1</sup>[an Indian University].

(2) No person shall be eligible for nomination under clause (a) of sub-section (1) of section 3 unless he resides in the Province concerned, and where a Provincial Medical Register is maintained in that Province, unless he is enrolled on that register.

(3) No person shall be eligible for election under clause (b) of sub-section (1) of section 3 unless he has had at least four years' experience as a Professor, Assistant Professor, Lecturer or Reader in Medical Colleges or Schools.

(4) No person may at the same time serve as a member in more than one capacity.

**Incorporation of the Council.**

6. The Council so constituted shall be a body corporate by the name of the Medical Council of India, having perpetual succession and a common seal, with power to acquire and hold property both moveable and immovable, and to contract, and shall by the said name sue and be sued.

**Term of Office.**

7. (1) An elected President shall hold office for a term not exceeding five years and not extending beyond the expiry of the term for which he has been nominated or elected to be a member of the Council.

<sup>1</sup> Subs. by the A.O. 1948 for "a British Indian University".

<sup>2</sup> Subs. by the A.O. 1937 for "three members".

<sup>3</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>4</sup> Subs. by the A.O. 1937 for "L.G."

<sup>5</sup> The words "subject to any instructions the G. G. in C. may issue in this behalf" rep. by the A.O. 1937.

(3) A member, other than a nominated President, shall hold office for the term of five years from the date of his nomination or election or until his successor shall have been duly nominated or elected, whichever is longer.

(3) Where the said term of five years is about to expire in respect of any member, his successor may be nominated or elected at any time within three months before the said term expires, but shall not assume office until the said term has expired.

8. (1) The Council shall hold its first meeting at such time and place as may be appointed by the <sup>1</sup>[Central Government]; and thereafter the Council shall meet at least once in each year at such time and place as may be appointed by the Council.

Meetings  
of the  
Council.

(2) Until otherwise provided by Regulations, ten members of the Council shall form a quorum, and all the acts of the Council shall be decided by a majority of the members present and voting.

9. (1) The Council shall—

(a) elect from amongst its members a Vice-President :

(b) constitute from amongst its members an Executive Committee, and such other Committees for general or special purposes as the Council deems necessary to carry out the purposes of this Act;

(c) appoint a Secretary, who may also, if deemed expedient, act as Treasurer;

(d) appoint or nominate such other officers and servants as the Council deems necessary to carry out the purposes of this Act;

(e) require and take from the Secretary, or from any other officer or servant, such security for the due performance of his duties as the Council deems necessary; and

(f) with the previous sanction of the <sup>1</sup>[Central Government], fix the remuneration and allowances to be paid to the President, Vice-President, members, officers and servants of the Council.

Officers,  
Committees  
and servants  
of the  
Council.

(2) Notwithstanding anything contained in clause (c) of sub-section (1), for the four years from the commencement of this Act, the Secretary of the Council shall be a person appointed by the <sup>1</sup>[Central Government], who shall hold office during the pleasure of the <sup>1</sup>[Central Government].

10. (1) The Executive Committee shall consist of seven members, of whom five shall be elected by the Council from amongst its members.

The Execu-  
tive Com-  
mittee.

(2) The President and Vice-President of the Council shall be members *ex-officio* of the Executive Committee, and shall be President and Vice-President, respectively, of that Committee.

(3) In addition to the powers and duties conferred and imposed upon it by this Act, the Executive Committee shall exercise and discharge such powers and duties as the Council may confer or impose upon it by any Regulations which may be made in this behalf.

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C."

Recognition of medical qualifications granted by medical institutions in the Provinces of India.

11. (1) The medical qualifications granted by medical institutions in <sup>1</sup>[the Provinces of India] which are included in the First Schedule shall be recognised medical qualifications for the purposes of this Act.

(2) Any medical institution in <sup>1</sup>[a Province of India] which grants a medical qualification not included in the First Schedule may apply to the <sup>2</sup>[Central Government] to have such qualification recognised, and the <sup>2</sup>[Central Government], after consulting the Council, may, by notification in the <sup>3</sup>[Official Gazette], amend the First Schedule so as to include such qualification therein.

(3) Such notification may also direct that an entry shall be made in the last column of the First Schedule against such medical qualification declaring that it shall be a recognised medical qualification only when granted after a specified date.

(4) The Council shall, as soon as may be and without application being made, make all necessary arrangements for the inspection of the medical courses and examinations of the Universities of Patna <sup>4</sup>\* \* \* and Andhra, and shall submit their recommendations to the <sup>2</sup>[Central Government] regarding the inclusion in the First Schedule of the medical qualifications granted by these Universities.

Non-Indian qualifications in Second Schedule to be recognised.

12. The medical qualifications granted by medical institutions outside <sup>1</sup>[the Provinces] which are included in the Second Schedule shall be recognised medical qualifications for the purposes of this Act, and shall be sufficient qualification for enrolment on any Provincial Medical Register.

Transitory arrangements for modifying the Second Schedule.

13. (1) At any time during the period of four years after the commencement of this Act, the Council may enter into negotiations with the authority in any State or country outside <sup>1</sup>[the Provinces] which is entrusted by the law of such State or country with the maintenance of a register of medical practitioners, for the settling of a scheme of reciprocity for the recognition of medical qualifications, and the course of such negotiations shall be reported to the <sup>2</sup>[Central Government], along with the decisions of the Council to recognise or to refuse to recognise the medical qualifications proposed by such authority for recognition in <sup>1</sup>[the Provinces].

(2) In so far as the decisions of the Council to recognise medical qualifications are accepted by the <sup>2</sup>[Central Government], they shall be embodied in a resolution and published in the <sup>3</sup>[Official Gazette], and such resolution shall specify or indicate with sufficient accuracy all medical qualifications finally approved for recognition in <sup>1</sup>[the Provinces]:

Provided that where any such resolution specifies or indicates a medical qualification which is not included in the Second Schedule, the <sup>2</sup>[Central Government] may, by notification in the <sup>3</sup>[Official Gazette], amend the Second Schedule so as to include such qualification therein, and such amendment may further direct that such qualification shall be deemed to be a recognised medical qualification for the purposes of this Act only when granted after a specified date.

<sup>1</sup> Subs. by the A.O. 1948 for "British India".

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>3</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>4</sup> The word "Rangoon" rep. by the A.O. 1937.

(3) Within one month before the expiry of the period of four years from the commencement of this Act, the <sup>1</sup>[Central Government] shall frame a schedule to include all medical qualifications which have been specified or indicated by <sup>2</sup>[it] in resolutions made under sub-section (2), and shall publish the said schedule in the <sup>3</sup>[Official Gazette], and such schedule shall be substituted for the Second Schedule with effect from the expiry of the said period of four years, and shall then have force as if it had been enacted in this Act:

Provided that the <sup>1</sup>[Central Government] shall include in the said schedule all medical qualifications included in the Second Schedule which were granted before the expiry of the said period of four years.

14. (1) At any time after the expiry of the period of four years after the commencement of this Act, the Council may complete or may enter into negotiations with the authority in any State or country outside <sup>4</sup>[the Provinces] which by the law of such State or country is entrusted with the maintenance of a register of medical practitioners, for the settling of a scheme of reciprocity for the recognition of medical qualifications, and in pursuance of any such scheme the <sup>1</sup>[Central Government] may, by notification in the <sup>3</sup>[Official Gazette], amend the Second Schedule so as to include therein any medical qualification which the Council has decided should be recognised.

Permanent arrangements for modifying the Second Schedule.

(2) Such notification may also direct that an entry shall be made in the last column of the Second Schedule against such medical qualification declaring that it shall be a recognised medical qualification only when granted after a specified date.

(3) The <sup>1</sup>[Central Government], after consultation with the Council, may, by notification in the <sup>3</sup>[Official Gazette], amend the Second Schedule by directing that an entry be made therein in respect of any medical qualification, declaring that it shall be a recognised medical qualification only when granted before a specified date.

(4) Where the Council has refused to recognise any medical qualification which has been proposed for recognition by any such authority, that authority may apply to the <sup>1</sup>[Central Government] and the <sup>1</sup>[Central Government], after considering such application and after consulting the Council, may, by notification in the <sup>3</sup>[Official Gazette], amend the Second Schedule so as to include such qualification therein, and the provisions of sub-section (2) shall apply to such notification.

15. Every medical institution in <sup>4</sup>[the Provinces] which grants a recognised medical qualification shall furnish such information as the Council may, from time to time, require as to the courses of study and examinations to be undergone in order to obtain such qualification, as to the ages at which such courses of study and examinations are required to be undergone and such qualification is conferred, and generally as to the requisites for obtaining such qualification.

Power to require information as to courses of study and examinations.

16. (1) The Executive Committee shall appoint such number of medical inspectors as it may deem requisite to attend at any or all of the examinations held by medical institutions in <sup>4</sup>[the Provinces] for the purpose of granting recognised medical qualifications.

Inspection of examinations.

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>2</sup> Subs. by the A.O. 1937 for "him".

<sup>3</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>4</sup> Subs. by the A.O. 1948 for "British India".

(2) Inspectors appointed under this section shall not interfere with the conduct of any examination, but they shall report to the Executive Committee on the sufficiency of every examination which they attend and on any other matters in regard to which the Executive Committee may require them to report.

(3) The Executive Committee shall forward a copy of any such report to the medical institution concerned, and shall also forward a copy, with the remarks of such institution thereon, to the <sup>1</sup>[Central Government].

Visitors at  
examina-  
tions.

<sup>2</sup>[16A. (1) The Council may appoint such number of visitors as it may deem requisite to attend at any or all of the examinations held by medical institutions in <sup>3</sup>[the Provinces] for the purpose of granting recognized medical qualifications.

(2) Any person, whether he is a member of the Council or not, may be appointed as a visitor under this section; but a person who is appointed as an inspector under section 16 for any examination shall not be appointed as a visitor for the same examination.

(3) Visitors appointed under this section shall not interfere with the conduct of any examination, but they shall report to the President of the Council on the sufficiency of every examination which they attend and on any other matters in regard to which the Council may require them to report.

(4) The report of a visitor shall be treated as confidential unless in any particular case the President of the Council otherwise directs.]

Withdrawal  
of recogni-  
tion.

17. (1) When, upon report by the Executive Committee, <sup>4</sup>[or by a visitor appointed under section 16A] it appears to the Council that the courses of study and examination to be gone through in any medical institution in <sup>5</sup>[the Provinces] in order to obtain a recognised medical qualification or that the standards of proficiency required from candidates at any examination held for the purpose of granting such qualification are not such as to secure to persons holding such qualification the knowledge and skill requisite for the efficient practice of medicine, the Council shall make a representation to that effect to the <sup>1</sup>[Central Government].

(2) After considering such representation, the <sup>1</sup>[Central Government] may send it to the <sup>5</sup>[Provincial Government] of the Province in which the medical institution is situated, and the <sup>5</sup>[Provincial Government] shall forward it, along with such remarks as it may choose to make, to the medical institution, with an intimation of the period within which the medical institution may submit its explanation to the <sup>5</sup>[Provincial Government].

(3) On the receipt of the explanation or, where no explanation is submitted within the period fixed, then on the expiry of that period, the <sup>5</sup>[Provincial Government] shall make its recommendations to the <sup>1</sup>[Central Government].

(4) The <sup>1</sup>[Central Government], after making such further inquiry, if any, as <sup>6</sup>[it] may think fit, may, by notification in the <sup>7</sup>[Official Gazette], direct that an entry shall be made in the First Schedule against the said medical qualification declaring that it shall be a recognised medical qualification only when granted before a specified date.

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>2</sup> Ins. by the Indian Medical Council (Amendment) Act, 1942 (4 of 1942), s. 2.

<sup>3</sup> Subs. by the A.O. 1948 for "British India".

<sup>4</sup> Ins. by s. 3. of Act 4 of 1942.

<sup>5</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>6</sup> Subs. by the A.O. 1937 for "he".

<sup>7</sup> Subs. by the A.O. 1937 for "Gazette of India".

18. (1) The Council may, with the previous sanction of the <sup>1</sup>[Central Government], make Regulations generally to carry out the purposes of this Act, and, without prejudice to the generality of this power, such Regulations may provide for—

Power to make Regulations.

- (a) the management of the property of the Council;
- (b) the summoning and holding of meetings of the Council, the times and places where such meetings are to be held, the conduct of business thereat and the number of members necessary to constitute a quorum;
- (c) the resignation of members of the Council and the filling of casual vacancies;
- (d) the powers and duties of the President and Vice-President;
- (e) the mode of appointment of the Executive Committee and other Committees, the summoning and holding of meetings, and the conduct of business of such Committees;
- (f) the tenure of office, and the powers and duties of the Secretary and other officers and servants of the Council;
- (g) the appointment, powers, duties and procedure of medical <sup>2</sup>[inspector and visitors]; and
- (h) any matter for which under this Act provision may be made by Regulations.

(2) Until the first Council is constituted under this Act, any Regulations which may be made under sub-section (1) may be made by the <sup>1</sup>[Central Government]; and any Regulation so made may be altered or rescinded by the Council in exercise of its power under sub-section (1).

19. (1) The Council shall furnish such reports, copies of its minutes, abstracts of its accounts, and other information to the <sup>1</sup>[Central Government] as <sup>3</sup>[it] may require.

Information to be furnished by Council, and publication thereof.

(2) The <sup>1</sup>[Central Government] may publish, in such manner as <sup>3</sup>[it] may think fit, any report, copy, abstract or other information furnished to <sup>4</sup>[it] under this section or under section 16.

20. (1) Whenever it is made to appear to the <sup>1</sup>[Central Government] that the Council is not complying with any of the provisions of this Act, the <sup>1</sup>[Central Government] may refer the particulars of the complaint to a Commission of Inquiry consisting of three persons, two of whom shall be appointed by the <sup>1</sup>[Central Government], one being a Judge of a High Court <sup>5</sup>\* \* \* and one by the Council; and such Commission shall proceed to inquire in a summary manner and to report to the <sup>1</sup>[Central Government] as to the truth of the matters charged in the complaint, and in case of any charge of default or of improper action being found by the Commission to have been established, the Commission shall recommend the remedies, if any, which are in its opinion necessary.

Commissions of Inquiry.

(2) The <sup>1</sup>[Central Government] may require the Council to adopt the remedies so recommended within such time as, having regard to the report of the Commission, <sup>3</sup>[it] may think fit; and if the Council fails to comply with any such requirement, the <sup>1</sup>[Central Government] may amend the Regulations of the Council, or make such provision or order or to take such other steps as may seem necessary to give effect to the recommendations of the Commission.

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>2</sup> Subs. by s. 4 of the Indian Medical Council (Amendment) Act, 1942 (4 of 1942) for "inspectors".

<sup>3</sup> Subs. by the A.O. 1937 for "he".

<sup>4</sup> Subs. by the A.O. 1937 for "him".

<sup>5</sup> The words "established by Letters Patent of the Crown" rep. by the A.O. 1948.

## (Schedule I.)

(3) A Commission of Inquiry shall have power to administer oaths, to enforce the attendance of witnesses and the production of documents, and shall have all such other necessary powers for the purpose of any inquiry conducted by it as are exercised by a Civil Court under the Code of (Civil Procedure, 1908.

V of 1908.

## THE FIRST SCHEDULE.

(See section 11.)

RECOGNISED MEDICAL QUALIFICATIONS GRANTED BY MEDICAL INSTITUTIONS  
IN <sup>1</sup>[THE PROVINCES OF INDIA].

Medical Institution.	Recognised medical qualification.	Abbreviation for registration.
University of Allahabad.	Bachelor of Medicine and Bachelor of Surgery	M.B., B.S., All.
University of Bombay.	Licentiate in Medicine and Surgery	L.M.S., Bom.
	Bachelor of Medicine and Bachelor of Surgery	M.B., B.S., Bom.
	Doctor of Medicine	M.D., Bom.
	Master of Surgery	M.S., Bom.
University of Calcutta.	Licentiate in Medicine and Surgery	L.M.S., Cal.
	Bachelor of Medicine	M.B., Cal.
	Doctor of Medicine	M.D., Cal.
	Master of Surgery	M.S., Cal.
	Master of Obstetrics	M.O., Cal.
University of Lucknow.	Bachelor of Medicine and Bachelor of Surgery	M.B., B.S., Lucknow.
	<sup>2</sup> [Doctor of Medicine	M.D., Lucknow.
	Master of Surgery	M.S., Lucknow.]
University of Madras.	Licentiate in Medicine and Surgery	L.M.S., Mad.
	Bachelor of Medicine and Master of Surgery	M.B., C.M., Mad..
	Bachelor of Medicine and Bachelor of Surgery	M.B., B.S., Mad.
	Doctor of Medicine	M.D., Mad.
	<sup>3</sup> [Master of Surgery	M.S., Mad.]
4*		
<sup>5</sup> [University of Patna.	Bachelor of Medicine and Bachelor of Surgery	M.B., B.S. Patna.]
	<sup>6</sup> [Doctor of Medicine	M.D., Patna.
	Master of Surgery	M.S., Patna.]

<sup>1</sup> Subs. by the A.O. 1948 for "British India".

<sup>2</sup> Ins. by notification No. F. 43-16/34, dated the 23rd August, 1934, see Gazette of India, 1934, Pt. I, p. 973.

<sup>3</sup> Ins. by notification No. F. 43-25/37, dated the 11th November, 1937, see Gazette of India, 1937, Pt. I, p. 1813.

<sup>4</sup> The entries relating to certain degrees of the Punjab University rep. by the A.O. 1949.

<sup>5</sup> Ins. by notification No. F. 43-10/35, dated the 11th May, 1935, see Gazette of India, 1935, Pt. I, p. 656.

<sup>6</sup> Ins. by notification No. F. 43-11/38, dated the 5th May, 1938, see Gazette of India, 1938, Pt. I, p. 934.

## (Schedule I.)

THE FIRST SCHEDULE—*concl'd.*

Medical Institution.	Recognised medical qualification.	Abbreviation for registration.
1[Andhra University.	Bachelor of Medicine and Bachelor of Surgery .	M.B., B.S., Andhra. 2* * *]
	3[Doctor of Medicine and Master of Surgery .	M.D., M.S., Andhra.]
	4[Licentiate in Medicine and Surgery . . .	L.M.S., Andhra.]
5[College of Physicians and Surgeons, Bombay.	Membership of College of Physicians and Surgeons, Bombay . . . . .	M.C.P.S. (Bombay). (This will be a recognised medical qualification only when granted after the 30th April 1944).]
6[Agra University.	Bachelor of Medicine and Bachelor of Surgery	M.B., B.S., Agra.]
7* * *	* * * * *	* * *

<sup>1</sup> Ins. by notification No. F. 43-6/39, dated the 4th May, 1939, *see* Gazette of India, 1939, Pt. I, p. 809.

<sup>2</sup> The words "This degree shall be a recognised medical qualification only when granted after the 30th November, 1938" rep. by notification No. F. 43-4/41-H. (C), dated the 17th July, 1941, *see* Gazette of India, 1941, Pt. I, p. 1020.

<sup>3</sup> Ins. by notification No. F. 43-2/40-H, dated the 26th January, 1942, *see* Gazette of India, 1942, Pt. I, p. 238.

<sup>4</sup> Ins. by notification No. F. 43-1/41-H, dated the 27th April, 1942, *see* Gazette of India, 1942, Pt. I, p. 791.

<sup>5</sup> Ins. by notification No. F. 43-7/43-H, dated the 2nd October, 1945, *see* Gazette of India, 1945, Pt. I, p. 1409.

<sup>6</sup> Ins. by notification No. F. 43-2/43-H, dated the 25th February, 1948, *see* Gazette of India, 1948, Pt. I, p. 254.

<sup>7</sup> The entry relating to the M.B., B.S. degree of the University of Rangoon rep. by notification No. F. 43-21/37, dated the 7th October, 1937, *see* Gazette of India, 1937, Pt. I, p. 1697.



(Schedule II.)

## [THE SECOND SCHEDULE.

(See section 12.)

RECOGNISED MEDICAL QUALIFICATIONS GRANTED BY MEDICAL INSTITUTIONS  
OUTSIDE <sup>2</sup>[THE PROVINCES OF INDIA]

Country.	Qualifications.		
UNITED KINGDOM	Registrable qualifications admitting primarily to the Medical Register granted by licensing bodies in the United Kingdom, as shown in Table (F) set out in the Medical Register printed and published from time to time under the direction of the General Council of Medical Education and Registration of the United Kingdom in pursuance of the Medical Acts, 1858 and 1886.		
Other countries.	Registrable qualifications.		Abbreviations.
	Title.	Nature of qualifications as stated on diplomas.	
<b>AUSTRALIA—</b>			
<i>New South Wales—</i>			
University of Sydney <sup>3</sup> [(d)]	M.B.; M.D.; Ch M., B.S.	Medicine and Surgery.	U. Sydney.
<i>South Australia—</i>			
<sup>3</sup> [(d)] University of Adelaide <sup>3</sup> [(a)]	M.B., B.S.; M.D.; M.S.	Do.	U. Adelaide.
<i>Victoria—</i>			
University of Melbourne <sup>3</sup> [(b)]	M.B.; M.D., B.S.; M.S.	Do.	U. Melbourne.
<b>BURMA—</b>			
University of Rangoon	M.B., B.S.	Do.	U. Rangoon.
<b>CANADA—</b>			
<i>Alberta—</i>			
College of Physicians and Surgeons of the Province of Alberta. <sup>3</sup> [(b)]	Member.	Do.	C. P. and S. Alta.
University of Alberta. <sup>3</sup> [(b)]	M.D.	Do.	U. Alberta.
<i>Manitoba—</i>			
College of Physicians and Surgeons of the Province of Manitoba. <sup>3</sup> [(b)]	Member.	Do.	C. P. & S. Man.
University of Manitoba. <sup>3</sup> [(b)]	M.D., M.D., C.M.	Do.	U. Man.

<sup>3</sup>[(a)] The qualification must be included in Table (I) of the British Medical Register as published from time to time by the General Council of Medical Education and Registration of the United Kingdom.

<sup>3</sup>[(b)] When granted on or before the 31st October, 1937.

<sup>3</sup>[(d)] When granted on or before the 31st March 1942.]

<sup>1</sup> Subs. for the original Sch. II, with effect from the 1st November, 1937, by notification No. F. 43-18/37, dated the 18th October, 1937, see Gazette of India, 1937, Pt. I, p. 1713.

<sup>2</sup> Subs. by the A.O. 1948 for "British India".

<sup>3</sup> The letters and brackets "(a)" and "(b)" were subs. for the signs "\*" and "f" and letter and brackets "(d)" and footnote "(d)" were ins. by notification No. F. 43-19(9)/40-H, dated the 11th December, 1941, see Gazette of India, 1941, see Gazette of India, 1941, Pt. I, p. 1738.

## (Schedule II.)

THE SECOND SCHEDULE—*contd.*

Other countries.*	Registrable qualifications.		Abbreviations.
	Title	Nature of qualifications as stated on diplomas.	
<b>CANADA—<i>contd.</i></b>			
<i>North-West Territories—</i> College of Physicians and Surgeons of the Province of North-West Territories. 1[(a)]. (When held in conjunction with Licence of the College of Physicians and Surgeons of the Province of Saskatchewan or the Province of Alberta).	Member.	Medicine and Surgery.	C. P. & S. N. W. Terr.
<i>Nova Scotia—</i> 1[(d)] Nova Scotia Provincial Medical Board. 1[(b)] 1[(d)] Dalhousie University. 1[(b)]	L.M.S. M.D., C.M.	Do. Do.	N. Scotia P. M. Bd. Dalhousie U.
<i>Prince Edward Island—</i> Prince Edward Island Medical Council. 1[(a)]	L.M.S.	Do.	M. Co. P. E. I.
<b>CEYLON—</b> 1[(d)] Ceylon Medical College. 1[(b)]	L.M.S.	Do.	Ceylon M. Coll.
<b>HONG KONG—</b> 1[(d)] University of Hong Kong. 1[(b)]	M.B., B.S.; M.D., M.S.	Do.	U. Hong Kong.
<b>ITALY—</b> All Royal Italian Universities. 2*	M.D.	Do.	...
<b>JAPAN—</b> 3[(c)] All Imperial Universities. 2*	M.B., (Igakushi); M.D. (Igaku Hakushi).	Do.	...
4[(f)] Any Government or Prefectural special medical colleges designated by a Minister of Education of Japan. 2*	M.B. (Igakushi).	Do.	...

1[(a)] When granted on or before the 31st October, 1937.

1[(b)] The qualification must be included in Table (1) of the British Medical Register as published from time to time by the General Council of Medical Education and Registration of the United Kingdom.

2\*

1[(d)] When granted on or before the 31st March 1942.]

3[(c)] When granted on or before the 10th October 1940.]

4[(f)] When granted on or before the 8th December 1941.]

1 The letters and brackets "(a)", "(b)" were subs. for the signs "A", "B" respectively and letter and brackets "(d)" and footnote (d) were ins. by notification No. F. 43-19(9)/40-11, dated the 11th December 1941, *see* Gazette of India, 1941, Pt. I, p. 1788.

2 The brackets and letter "(c)" which had been subs. for the original sign "C" by notification No. F. 43-19(9)/40-11, dated the 11th December 1941 and "footnote (c)" were rep. by notification No. F. 22-9/48-M.I., dated the 29th May 1948, *see* Gazette of India, 1948, Pt. I, p. 668.

3 The letter and brackets "(c)" and footnote (c) were ins. by notification No. F. 43-19(10)/40-11, dated the 11th December 1941, *see* *ibid.*

4 The letter and brackets "(f)" and footnote (f) were ins. by notification No. F. 43-19/40-11, dated the 27th January 1942, *see* Gazette of India, 1942, Pt. I, p. 233.

## (Schedule II.)

THE SECOND SCHEDULE.—*concl'd.*

Other countries.	Registrable qualifications.		Abbreviations.
	Title.	Nature of qualifications as stated on diplomas.	
<b>MAITA—</b> <sup>1</sup> [Royal] University of Malta.	M.D.	Medicine and Surgery.	U. Malta.
<b>NEWFOUNDLAND—</b> Newfoundland Medical Board <sup>2</sup> [(a)].	L.M.S.	Do.	Nfld. M. Bd.
<b>NEW ZEALAND—</b> University of New Zealand.	M.B., Ch.B.; Ch.M. M.D.	Do.	U. N. Zealand.
<sup>3</sup> [PAKISTAN— Punjab University.         ]	L.M.S.; M.B. M.B.B.S.; M.D.; M.S.	Do.	U. West Punjab.]
<b>UNION OF SOUTH AFRICA—</b> University of South Africa. <sup>2</sup> [(a)]	M.B., Ch.B.	Do.	U. S. Africa.
<sup>2</sup> [(d)] University of Cape Town <sup>2</sup> [(b)].	M.B., Ch.B.; M.D., Ch.M.	Do.	U. Cape Town.
University of the Witwatersrand, Johannesburg. <sup>2</sup> [(b)].	M.B., Ch.B.; M.D., Ch.M.	Do.	U. Witwatersrand.
<b>STRAITS SETTLEMENTS          AND FEDERATED MALAY          STATES .</b> <sup>2</sup> [(d)] The King Edward VII College of Medicine, Singapore. <sup>2</sup> [(b)]	L.M.S.	Do.	Singapore Med. Coll.

<sup>2</sup>[(a)] When granted on or before the 31st October, 1937.

<sup>2</sup>[(b)] The qualification must be included in Table (I) of the British Medical Register as published from time to time by the General Council of Medical Education and Registration of the United Kingdom.]

<sup>2</sup>[(d)] When granted on or before the 31st March, 1942.

<sup>1</sup> Ins. by notification N. F. 43 27/38, dated the 20th January, 1938, *see* Gazette of India, 1938, Pt. I, p. 75.

<sup>2</sup> The letters and brackets "(a)" and "(b)" were subs. for the signs "\*" and "+" respectively and letter and brackets "(d)" and footnote (d) were ins. by notification No. F. 43-19(9)/40-H, dated the 11th December 1941, *see* Gazette of India, 1941, Pt. I, p. 1788.

<sup>3</sup> Ins. by the A.O. 1948.

**THE RESERVE BANK OF INDIA ACT, 1934.****CONTENTS**

---

**CHAPTER I.****PRELIMINARY****SECTIONS.**

1. Short title, extent and commencement.
2. Definitions.

---

**CHAPTER II.****INCORPORATION, SHARE CAPITAL, MANAGEMENT AND BUSINESS.**

3. Establishment and incorporation of Reserve Bank.
4. Share capital, share registers and shareholders.
5. Increase and reduction of share capital.
6. Offices, branches and agencies.
7. Management.
8. Composition of the Central Board, and term of office of Directors.
9. Local Boards, their constitution and functions.
10. Disqualifications of Directors and members of Local Boards.
11. Removal from and vacation of office.
12. Casual vacancies and absences.
13. Meetings of the Central Board.
14. General meetings.
15. First constitution of the Central Board.
16. First constitution of Local Boards.
17. Business which the Bank may transact.
18. Power of direct discount.
19. Business which the Bank may not transact.

---

**CHAPTER III.****CENTRAL BANKING FUNCTIONS.**

20. Obligation of the Bank to transact Government business.
- 20A. [*Repealed*].
21. Bank to have the right to transact Government business in India.
22. Right to issue bank notes.
23. Issue Department.
24. Denominations of notes.
25. Form of bank notes.
26. Legal tender character of notes.
27. Re-issue of notes.

## SECTIONS.

28. Recovery of notes lost, stolen, mutilated or imperfect.
29. Bank exempt from stamp duty on bank notes.
30. Powers of Central Government to supersede Central Board.
31. Issue of demand bills and notes.
32. Penalty.
33. Assets of the Issue Department.
34. Liabilities of the Issue Department.
35. Initial assets and liabilities.
36. Method of dealing with fluctuations in rupee coin assets.
37. Suspension of assets requirements.
38. Obligations of Government and the Bank in respect of rupee coin.
39. Obligation to supply different forms of currency.
- 40-41. Transactions in foreign exchange.
- 41A. [*Repealed*].
42. Cash reserves of scheduled banks to be kept with the Bank.
43. Publication of consolidated statement by the Bank.
44. Power to require returns from co-operative banks.
45. Agreement with the Imperial Bank.

## CHAPTER IV.

## GENERAL PROVISIONS

46. Contribution by Central Government to the Reserve Fund
47. Allocation of surplus.
48. Exemption of Bank from income-tax and super-tax and provision for deduction at source of income-tax on dividends.
49. Publication of bank rate.
50. Auditors.
51. Appointment of special auditors by Government.
52. Powers and duties of auditors.
53. Returns.
54. Agricultural Credit Department
55. Reports by the Bank.
56. Power to require declaration as to ownership of registered shares.
57. Liquidation of the Bank.
58. Power of the Central Board to make regulations
- 59 to 61. [*Repealed*].

THE FIRST SCHEDULE.—AREAS SERVED BY THE VARIOUS SHARE REGISTERS.

THE SECOND SCHEDULE.—SCHEDULED BANKS.

THE THIRD SCHEDULE.—PROVISIONS TO BE CONTAINED IN THE AGREEMENT BETWEEN THE RESERVE BANK OF INDIA AND THE IMPERIAL BANK OF INDIA.

THE FOURTH SCHEDULE.—SCALE OF ADDITIONAL DIVIDEND PAYABLE TO SHARE-HOLDERS.

THE FIFTH SCHEDULE.—[*Repealed*].

Act No. II of 1934.<sup>1</sup>

[6th March, 1934]

## An Act to constitute a Reserve Bank of India.

WHEREAS it is expedient to constitute a Reserve Bank for India to regulate the issue of Bank notes and the keeping of reserves with a view to securing monetary stability in <sup>2</sup>[India] and generally to operate the currency and credit system of the country to its advantage;

AND WHEREAS in the present disorganisation of the monetary systems of the world it is not possible to determine what will be suitable as a permanent basis for the Indian monetary system;

BUT WHEREAS it is expedient to make temporary provision on the basis of the existing monetary system, and to leave the question of the monetary standard best suited to India to be considered when the international monetary position has become sufficiently clear and stable to make it possible to frame permanent measures;

It is hereby enacted as follows:—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Reserve Bank of India Act, 1934.

(2) It extends to <sup>3</sup>[all the Provinces of India], including \* \* \* the Sonthal Parganas.

(3) This section shall come into force at once, and the remaining provisions of this Act shall come into force on such date or dates<sup>5</sup> as the <sup>4</sup>[Central Government] may, by notification in the Gazette of India, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "the Bank" means the Reserve Bank of India constituted by this Act;

(b) "the Central Board" means the Central Board of Directors of the Bank;

<sup>7</sup>[(bb) "foreign exchange" has the same meaning as in the Foreign Exchange Regulation Act, 1947];

(c) "provincial co-operative bank" means the principal society in a Province which is registered or deemed to be registered under the Co-operative Societies Act, 1912 or any other law for the time being in force in <sup>2</sup>[the Provinces] relating to co-operative societies and the primary object of which is the financing of the other societies in the Province which are or are deemed to be so registered;

<sup>1</sup>For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 180 and for Report of Select Committee, see *ibid.*, pp. 197 to 207.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) and applied to the Chittagong Hill-tracts by the Chittagong Hill-tracts Laws Regulation, 1940 (Bengal Regulation 1 of 1940).

This Act has been supplemented by Act 7 of 1940 and Ordinance 20 of 1943.

<sup>2</sup>Subs. by the A.O. 1948, for "British India".

<sup>3</sup>Subs. by the A.O. 1948, for "the whole of British India".

<sup>4</sup>The words "British Baluchistan and" rep. by the A.O. 1948.

<sup>5</sup>Sections 2 to 19, 47, 48, 50 to 52, 55 to 58 and 61 were brought into force on 1st January, 1935; see Gazette of India, 1934, Pt. I, p. 1369; and the other sections on 1st April, 1935, see *ibid.*, 1935, Pt. I, p. 353.

<sup>6</sup>Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para 1 and Sch. III for "G. G. in C." The A.O. 1937 does not apply to this Act, see para. 12(c) of the A.O. 1937.

<sup>7</sup>Ins. by the Reserve Bank of India (Second Amendment) Act, 1947 (23 of 1947), s. 2.

Short title,  
extent and  
commence-  
ment.

Definitions.

VII of 1947.

II of 1912.

(Chapter I.—Preliminary—Chapter II.—Incorporation, Share Capital, Management and Business.)

Provided that in addition to such principal society in a Province or where there is no such principal society in a Province the <sup>1</sup>[Provincial Government] may declare any central co-operative society in that Province to be a provincial co-operative bank within the meaning of this definition;

(d) "rupee coin" means silver rupees which are legal tender <sup>2</sup>[in <sup>3</sup>the Provinces]] under the provisions of the Indian Coinage Act, 1906; <sup>4</sup>\* **III of 1906.**

(e) "scheduled bank" means a bank included in the Second Schedule;

5\* \* \* \* \*

## CHAPTER II.

### INCORPORATION, SHARE CAPITAL, MANAGEMENT AND BUSINESS.

Establishment and incorporation of Reserve Bank,

3. (1) A bank to be called the Reserve Bank of India shall be constituted for the purposes of taking over the management of the currency from the <sup>5</sup>[Central Government] and of carrying on the business of banking in accordance with the provisions of this Act.

(2) The Bank shall be a body corporate by the name of the Reserve Bank of India, having perpetual succession and a common seal, and shall by the said name sue and be sued.

Share capital, share registers and shareholders.

4. (1) The original share capital of the Bank shall be five crores of rupees divided into shares of one hundred rupees each, which shall be fully paid up.

(2) Separate registers of shareholders shall be maintained at Bombay, Calcutta, <sup>7</sup>[Delhi and Madras], and a separate issue of shares shall be made in each of the areas served by those registers, as defined in the First Schedule, and shares shall be transferable from one register to another.

(3) A shareholder shall be qualified to be registered as such in any area in which he is ordinarily resident or has his principal place of business in India <sup>8</sup>\* \* \* but no person shall be registered as a shareholder in more than one register; and no person who is not—

(a) domiciled in India <sup>8</sup>\* \* \* and either <sup>9</sup>[an Indian <sup>10</sup>\* \* \* subject of His Majesty] or a subject of a State in India <sup>6</sup>\* \* \* or

<sup>1</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "L. G."

<sup>2</sup> Ins. *ibid.*

<sup>3</sup> Subs. by the A.O. 1948, for "British India".

<sup>4</sup> The word "and" rep. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>5</sup> Clauses (f) to (k) which had been ins. by, *ibid.*, were rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 2.

<sup>6</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G.G. in C."

<sup>7</sup> Subs. by Act 11 of 1947, s. 3 for "Delhi, Madras and Rangoon".

<sup>8</sup> The words "or Burma" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, were rep. by Act 11 of 1947, s. 3.

<sup>9</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "an India subject of His Majesty".

<sup>10</sup> The words "or Burma" rep. by Act 11 of 1947, s. 3.

## (Chapter II.—Incorporation, Share Capital, Management and Business.)

(b) a British subject ordinarily resident in India <sup>1\*</sup> \* \* and domiciled in the United Kingdom or in any part of His Majesty's Dominions the government of which does not discriminate in any way against <sup>2</sup>[Indian <sup>3\*</sup> \* \* subjects of His Majesty], or

VII of 1913  
II of 1912.

(c) a company registered under the Indian Companies Act, 1913, or a society registered under the Co-operative Societies Act, 1912, or any other law for the time being in force in <sup>4</sup>[a Province of India] relating to co-operative societies or a scheduled bank, or a corporation or company incorporated by or under an Act of Parliament or any law for the time being in force in any part of His Majesty's Dominions the Government of which does not discriminate in any way against <sup>2</sup>[Indian <sup>3\*</sup> \* \* subjects of His Majesty], and having a branch in <sup>4</sup>[a Province of India] <sup>5\*</sup> \* \* \*

Shall be registered as a shareholder or be entitled to payment of any dividend on any share, and no person, who, having been duly registered as a shareholder, ceases to be qualified to be so registered, shall be able to exercise any of the rights of a shareholder otherwise than for the purpose of the sale of his shares.

(4) The <sup>6</sup>[Central Government] shall, by notification in the Gazette of India, specify the parts of His Majesty's Dominions which shall be deemed for the purposes of clauses (b) and (c) of sub-section (3) to be the parts of His Majesty's Dominions in which no discrimination against Indian <sup>7\*</sup> \* \* subjects of His Majesty exists.

<sup>8</sup>[(4A) Without prejudice to the validity of any registration made before the commencement of the Reserve Bank of India (Second Amendment) Act, 1940, no person shall, after the commencement of that Act, be registered as a shareholder in respect of any shares held by him whether in his own name or jointly with another person or persons in excess of a total nominal value of twenty thousand rupees, or be entitled to payment of any dividend on such shares or to exercise any of the rights of a shareholder in respect of such shares otherwise than for the purpose of selling the shares.] <sup>9\*</sup> \* \* \*

A Committee consisting of <sup>10</sup>[three persons elected from among themselves by the members of the Central Legislature] shall be associated with the Central Board for the purpose of making public issue of shares and looking after the first allotment of shares.

(6) In allotting the shares assigned to a register, the Central Board shall, in the first instance, allot five shares to each qualified applicant who has applied for five or more shares; and, if the number of such applicants is

<sup>1</sup> The words "or Burma" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, were rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947) s. 3.

<sup>2</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III for "Indian subjects of His Majesty".

<sup>3</sup> The words "or Burman" rep. by Act 11 of 1947, s. 3.

<sup>4</sup> Subs. by the A.O. 1948 for "British India".

<sup>5</sup> The words "or in Burma, or" and "clause (d)" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by Act 11 of 1947, s. 3.

<sup>6</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III for "G.G. in C.".

<sup>7</sup> The words "or Burman" which had been ins. by *ibid*, were rep. by Act 11 of 1947, s. 3.

<sup>8</sup> Ins. by the Reserve Bank of India (Amendment) Act, 1940 (13 of 1940), s. 2.

<sup>9</sup> Para 1 of sub-section (5), rep. by the Act 11 of 1947, s. 3.

<sup>10</sup> Subs. by the A.O. 1948 for certain original words.



*(Chapter II.—Incorporation, Share Capital, Management and Business.)*

greater than one-fifth of the total number of shares assigned to the register, shall determine by lot the applicants to whom the shares shall be allotted.

(7) If the number of such applicants is less than one-fifth of the number of shares assigned to the register, the Central Board shall allot the remaining shares firstly, up to the limit of one-half of such remaining shares, to those applicants who have applied for less than five shares, and there-  
s to the balance to the various applicants in such manner as it may deem fair and equitable, having regard to the desirability of distributing the shares and the voting rights attached to them as widely as possible.

(8) Notwithstanding anything contained in sub-sections (6) and (7), the Central Board shall reserve for and allot to Government shares of the nominal value of two lakhs and twenty thousand rupees to be held by Government for disposal at par to Directors, seeking to obtain the minimum share qualification required under sub-section (2) of section 11.

(9) If, after all applications have been met in accordance with the provisions of sub-sections (6), (7) and (8), any shares remain unallotted, they shall, notwithstanding anything contained in this section, be allotted to and taken up by Government, and shall be sold by the <sup>1</sup>[Central Government] as soon as may be, at not less than par, to residents of the areas served by the register concerned.

(10) The <sup>1</sup>[Central Government] shall have no right to exercise any vote under this Act by reason of any shares allotted to <sup>2</sup>[Government] under sub-section (8) or under sub-section (9).

(11) A Director shall not dispose of any shares obtained from Government under the provisions of sub-section (8) otherwise than by re-sale to Government at par, and Government shall be entitled to re-purchase at par all such shares held by any Director on his ceasing from any cause to hold office as Director.

**Increase and  
reduction of  
share  
capital.**

5. (1) The share capital of the Bank may be increased or reduced on the recommendation of the Central Board, with the previous sanction of the <sup>1</sup>[Central Government] and with the approval of the Central Legislature; to such extent and in such manner as may be determined by the Bank in general meeting.

(2) The additional shares so created shall be of the nominal value of one hundred rupees each and shall be assigned to the various registers in <sup>2</sup>[such proportions as the Central Board may, with the previous approval of the Central Government, determine].

(3) Such additional shares shall be fully paid up, and the price at which they may be issued shall be fixed by the Central Board with the previous sanction of the <sup>1</sup>[Central Government].

(4) The provisions of section 4 relating to the manner of allotment of the shares constituting the original share capital shall apply to the allotment of such additional shares, and existing shareholders shall not enjoy any preferential right to the allotment of such additional shares.

<sup>1</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C."

<sup>2</sup> Subs. for "him", *ibid.*

<sup>3</sup> Subs. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 4, for "the same proportions as the shares constituting the original share capital".

*(Chapter II.—Incorporation, Share Capital, Management and Business.)*

6. The Bank shall, as soon as may be, establish offices in Bombay, Calcutta, [Delhi and Madras] and a branch in London, and may establish branches or agencies in any other place in India <sup>2\*</sup> \* \* or, with the previous sanction of the [Central Government], elsewhere.

**Offices,  
branches  
and agencies.**

7. The general superintendence and direction of the affairs and business of the Bank shall be entrusted to a Central Board of Directors which may exercise all powers and do all acts and things which may be exercised or done by the Bank and are not by this Act expressly directed or required to be done by the Bank in general meeting.

**Manage-  
ment.**

8. (1) The Central Board shall consist of the following Directors. **Composition of the Central Board, and term of office of Directors.**

namely :—  
(a) a Governor and two Deputy Governors, to be appointed by the [Central Government] after consideration of the recommendations made by the Board in that behalf;

(b) four Directors to be nominated by the [Central Government];

(c) eight Directors to be elected on behalf of the shareholders on the various registers, in the manner provided in section 9 and in the following numbers, namely :—

(i) for the Bombay register—two Directors;

(ii) for the Calcutta register—two Directors;

(iii) for the Delhi register—two Directors;

(iv) for the Madras register—[two Directors].

\* \* \* \* \*

(d) one government official to be nominated by the [Central Government].

(2) The Governor and Deputy Governors shall devote their whole time to the affairs of the Bank, and shall receive such salaries and allowances as may be determined by the Central Board, with the approval of the [Central Government].

(3) A Deputy Governor and the Director nominated under clause (d) of sub-section (1) may attend any meeting of the Central Board and take part in its deliberations but shall not be entitled to vote:

Provided that when the Governor is absent a Deputy Governor authorized by him in this behalf in writing may vote for him.

(4) The Governor and a Deputy Governor shall hold office for such term not exceeding five years as the [Central Government] may fix when appointing them, and shall be eligible for re-appointment.

A Director nominated under clause (b) or elected under clause (c) of sub-section (1) shall hold office for five years, or thereafter until his successor shall have been duly nominated or elected, and, subject to the provisions of section 10, shall be eligible for re-nomination or re-election.

A Director nominated under clause (d) of sub-section (1) shall hold office during the pleasure of the [Central Government].

<sup>1</sup> Subs. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 5 for "Delhi, Madras and Rangoon".

<sup>2</sup> The words "or Burma" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by Act 11 of 1947, s. 5.

<sup>3</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C."

<sup>4</sup> Subs. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 6, for "one Director".

<sup>5</sup> Sub-clause (V) rep. *ibid*.

*(Chapter II.—Incorporation, Share Capital, Management and Business.)*

(5) No act or proceeding of the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

**Local  
Boards, their  
constitution  
and  
functions.**

9. (1) A Local Board shall be constituted for each of the <sup>1</sup>[four areas] specified in the First Schedule, and shall consist of—

(a) five members elected from amongst themselves by the shareholders who are registered on the register for that area and are qualified to vote, and  
(b) not more than three members nominated by the Central Board from amongst the shareholders registered on the register for that area, who may be nominated at any time:

Provided that the Central Board shall in exercising this power of nomination aim at securing the representation of territorial or economic interests not already represented, and in particular the representation of agricultural interests and the interests of co-operative banks.

(2) At an election of members of a Local Board for any area, any shareholder who has been registered on the register for that area, for a period of not less than six months ending with the date of the election, as holding five shares shall have one vote, and each shareholder so registered as having more than five shares shall have one vote for each five shares, but subject to a maximum of ten votes, and such votes may be exercised by proxy appointed on each occasion for that purpose, such proxy being himself a shareholder entitled to vote at the election and not being an employee of the Bank.

(3) The members of a Local Board shall hold office until they vacate it under sub-section (6) and, subject to the provisions of section 10, shall be eligible for re-election or re-nomination, as the case may be.

(4) At any time within three months of the day on which the Directors representing the shareholders on any register are due to retire under the provisions of this Act, the Central Board shall direct an election to be held of members of the Local Board concerned, and shall specify a date from which the registration of transfers from and to the register shall be suspended until the election has taken place.

(5) On the issue of such direction the Local Board shall give notice of the date of the election and shall publish a list of shareholders holding five or more shares, with the dates on which their shares were registered, and with their registered addresses, and such list shall be available for purchase not less than three weeks before the date fixed for the election.

(6) The names of the persons elected shall be notified to the Central Board which shall thereupon proceed to make any nominations permitted by clause (b) of sub-section (1); it may then decide to make, and shall fix the date on which the outgoing members of the Local Board shall vacate office, and the incoming members shall be deemed to have assumed office on that date.

(7) The elected members of a Local Board shall, as soon as may be after they have been elected, elect from amongst themselves <sup>2</sup>[two persons], to be Directors representing the shareholders on the register for the area for which the Board is constituted.

<sup>1</sup> Subs. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 7, for "five areas".

<sup>2</sup> Subs., *ibid*, for "one or two persons, as the case may be".

(Chapter II.—Incorporation, Share Capital, Management and Business.)

(8) A Local Board shall advise the Central Board on such matters as may be generally or specifically referred to it and shall perform such duties as the Board may, by regulations, delegate to it.

10. (1) No person may be a Director or a member of a Local Board who—

Disqualifica-  
tions of  
Directors  
and members  
of Local  
Boards.

(a) is a salaried government official or a salaried official of a State in India <sup>1</sup> \* \* \* or

(b) is, or at any time has been, adjudicated an insolvent, or has suspended payment or has compounded with his creditors, or

(c) is found lunatic or becomes of unsound mind, or

(d) is an officer or employee of any bank, or

(e) is a Director of any bank, other than a bank which is a society registered or deemed to be registered under the Co-operative Societies Act, 1912, or any other law for the time being in force in <sup>2</sup>[the Provinces] <sup>1</sup> \* \* \* relating to co-operative societies.

(2) No two persons who are partners of the same mercantile firm, or are Directors of the same private company, or one of whom is the general agent of or holds a power of procuration from the other, or from a mercantile firm of which the other is a partner, may be Directors or members of the same Local Board at the same time.

(3) Nothing in clause (a), clause (d) or clause (e) of sub-section (1) shall apply to the Governor, or to a Deputy Governor or to the Director nominated under clause (d) of sub-section (1) of section 8.

11. (1) The <sup>3</sup>[Central Government] may remove from office the Governor: or a Deputy Governor or any nominated or elected Director:

Removal  
from and  
vacation of  
office.

Provided that in the case of a Director nominated or elected under clause (b) or clause (c) of sub-section (1) of section 8 this power shall be exercised only on a resolution passed by the Central Board in that behalf by a majority consisting of not less than nine Directors.

(2) A Director nominated or elected under clause (b) or clause (c) of sub-section (1) of section 8, and any member of a Local Board shall cease to hold office, if, at any time after six months from the date of his nomination or election, he is not registered as a holder of unencumbered shares of the Bank of a nominal value of not less than five thousand rupees, or if he ceases to hold unencumbered shares of that value, and any such Director shall cease to hold office if without leave from the <sup>3</sup>[Central Government] he absents himself from three consecutive meetings of the Central Board convened under sub-section (1) of section 13.

(3) The <sup>3</sup>[Central Government] shall remove from office any Director, and the Central Board shall remove from office any member of a Local Board, if such Director or member becomes subject to any of the disqualifications specified in sub-section (1) or sub-section (2) of section 10.

<sup>1</sup> The words "or Burma" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 8.

<sup>2</sup> Subs. by the A.O. 1948 for "British India".

<sup>3</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937 Pt. III, para. 1 and Sch. III, for "G. G. in C."

## (Chapter II.—Incorporation, Share Capital, Management and Business.)

(4) A Director or member of a Local Board removed or ceasing to hold office under the foregoing sub-sections shall not be eligible for re-appointment either as Director or as member of a Local Board until the expiry of the term for which his appointment was made.

(5) The appointment, nomination or election as Director or member of a Local Board of any person who is a member of <sup>1</sup>[the <sup>2</sup>[Central] Legislature, <sup>3</sup>\* \* \* a Provincial Legislature, <sup>4</sup>[or the Coorg Legislative Council]] shall be void, unless within two months of the date of his appointment, nomination or election, he ceases to be such member, and, if any Director or member of a Local Board is elected or nominated as a member of any such Legislature <sup>5</sup>[or Council], he shall cease to be a Director or member of the Local Board as from the date of such election or nomination, as the case may be.

(6) A Director may resign his office to the <sup>6</sup>[Central Government], and a member of a Local Board may resign his office to the Central Board, and on the acceptance of the resignation the office shall become vacant.

Casual  
vacancies  
and  
absences.

12. (1) If the Governor or a Deputy Governor by infirmity or otherwise is rendered incapable of executing his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment, the <sup>7</sup>[Central Government] may, after consideration of the recommendations made by the Central Board in this behalf, appoint another person to officiate for him, and such person may, notwithstanding anything contained in clause (d) of sub-section (1) of section 10, be an officer of the Bank.

(2) If an elected Director is for any reason unable to attend a particular meeting of the Central Board, the elected members of the Local Board of the area which he represents may elect one of their number to take his place, and for the purposes of that meeting the substitute so elected shall have all the powers of the absent Director.

(3) Where any casual vacancy in the office of any member of a Local Board occurs otherwise than by the occurrence of a vacancy in the office of a Director elected by the Local Board, the Central Board may nominate thereto any qualified person recommended by the elected members of the Local Board.

(4) Where any casual vacancy occurs in the office of a Director other than the vacancies provided for in sub-section (1) the vacancy shall be filled, in the case of a nominated Director by nomination, and in the case of an elected Director by election held in the manner provided in section 9 for the election of Directors:

Provided that before such election is made the resulting vacancy, if any, in the Local Board and any vacancy in the office of an elected member of such Board which may have been filled by a member nominated under sub-section (3) shall be filled by election held as nearly as may be in the manner provided in section 9 for the election of members of a Local Board.

<sup>1</sup> Subs. for "the Indian Legislature or of a local Legislature" by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>2</sup> Subs. by the A.O. 1948, for "Federal".

<sup>3</sup> The words "the Indian Legislature" rep., *ibid.*

<sup>4</sup> Subs. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 9, for "the Coorg Legislative Council or the Burma Legislature".

<sup>5</sup> Ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>6</sup> Subs., *ibid.*, for "G.G. in C."

*(Chapter II.—Incorporation, Share Capital, Management and Business.)*

(5) A person nominated or elected under this section to fill a casual vacancy shall, subject to the proviso contained in sub-section (4), hold office for the unexpired portion of the term of his predecessor.

13. (1) Meetings of the Central Board shall be convened by the Governor at least six times in each year and at least once in each quarter. **Meetings of the Central Board.**

(2) Any three Directors may require the Governor to convene a meeting of the Central Board at any time and the Governor shall forthwith convene a meeting accordingly.

(3) The Governor, or in his absence the Deputy Governor authorized by the Governor under the proviso to sub-section (3) of section 8 to vote for him, shall preside at meetings of the Central Board, and, in the event of an equality of votes, shall have a second or casting vote.

14. (1) A general meeting (hereinafter in this Act referred to as the annual general meeting) shall be held annually at a place <sup>1</sup>[in <sup>2</sup>the Provinces]] where there is an office of the Bank within six weeks from the date on which the annual accounts of the Bank are closed, and a general meeting may be convened by the Central Board at any other time: **General meetings.**

Provided that the annual general meeting shall not be held on two consecutive occasions at any one place.

<sup>3</sup>(2) The shareholders present at a general meeting shall be entitled to discuss the annual accounts, the report of the Central Board on the working of the Bank throughout the year and the auditors' report on the annual balance-sheet and accounts.

(3) Every shareholder shall be entitled to attend at any general meeting and each shareholder who has been registered on any register, for a period of not less than six months ending with the date of the meeting, as holding five or more shares shall have one vote and on a poll being demanded each shareholder so registered shall have one vote for each five shares, but subject to a maximum of ten votes, and such votes may be exercised by proxy appointed on each occasion for that purpose, such proxy being himself a shareholder entitled to vote at the election and not being an officer or employee of the Bank.

15. (1) The following provisions shall apply to the first constitution of the Central Board, and, notwithstanding anything contained in section 8, the Central Board as constituted in accordance therewith shall be deemed to be duly constituted in accordance with this Act. **First constitution of the Central Board.**

(2) The first Governor and the first Deputy Governor or Deputy Governors shall be appointed by the <sup>4</sup>[Central Government] on <sup>5</sup>his own initiative, and shall receive such salaries and allowances as <sup>6</sup>he may determine.

(3) The first eight Directors representing the shareholders on the various registers shall be nominated by the <sup>4</sup>[Central Government] from the areas served respectively by those registers, and the Directors so nominated

<sup>1</sup> Ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>2</sup> Subs. by the A.O. 1948, for "British India".

<sup>3</sup> See also s. 4 of Act 7 of 1940.

<sup>4</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C."

<sup>5</sup> Sic. Should now read "its".

<sup>6</sup> Sic. Should now read "it".

*(Chapter II.—Incorporation, Share Capital, Management and Business.)*

shall hold office until their successors shall have been duly elected as provided in sub-section (4).

(4) On the expiry of each successive period of twelve months after the nomination of Directors under sub-section (3) two Directors shall be elected in the manner provided in section 9 until all the Directors so nominated have been replaced by elected Directors holding office in accordance with section 8. The register in respect of which the election is to be held shall be selected by lot from among the registers still represented by nominated Directors, <sup>1</sup>\* \* \*

**First  
constitution  
of Local  
Boards.**

16. As soon as may be after the commencement of this Act, the Central Board shall direct elections to be held and may make nominations, in order to constitute Local Boards in accordance with the provisions of section 9, and the members of such Local Boards shall hold office up to the date fixed under sub-section (6) of section 9, but shall not exercise any right under sub-section (7) of that section.

**Business  
which the  
Bank may  
transact.**

17. The Bank shall be authorized to carry on and transact the several kinds of business hereinafter specified, namely :—

(1) the accepting of money on deposit without interest from, and the collection of money for <sup>2</sup>\* \* \*, the <sup>3</sup>[Central Government], <sup>4</sup>\* \* \*, the Provincial Governments, <sup>5</sup>\* \* \*], States in India, local authorities, banks and any other persons;

(2) (a) the purchase, sale and rediscount of bills of exchange and promissory notes, <sup>7</sup>[drawn on <sup>8</sup>and payable in India] and arising out of bona fide commercial or trade transactions bearing two or more good signatures, one of which shall be that of a scheduled bank <sup>9</sup>\* \* \*, and maturing within ninety days from the date of such purchase or rediscount, exclusive of days of grace;

(b) the purchase, sale and rediscount of bills of exchange and promissory notes, <sup>10</sup>[drawn <sup>11</sup>and payable in India] and bearing two or more

<sup>1</sup> The words "and for the purposes of such lot the Madras and Rangoon registers shall be treated as if they comprised one register only" rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 10.

<sup>2</sup> The words "the Secretary of State" which had been subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "the Secretary of State in Council" rep. by the A.O. 1948.

<sup>3</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C".

<sup>4</sup> Subs. for "Local Governments", *ibid.*

<sup>5</sup> The words "the Federal Railway Authority" rep. by the A.O. 1948.

<sup>6</sup> The words "the Government of Burma, the Burma Railway Board" rep. by Act 11 of 1947, s. 11.

<sup>7</sup> Subs. for "drawn on and payable in India" by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>8</sup> Subs. by Act 11 of 1947, s. 11, for "India or Burma and payable in India or Burma".

<sup>9</sup> The words "or a Burma Scheduled Bank" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III. rep. by Act 11 of 1947, s. 11.

<sup>10</sup> Subs. for "drawn and payable in India" by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>11</sup> Subs. by Act 11 of 1947, s. 11 for "either in India or in Burma and payable either in India or in Burma".

(Chapter II.—Incorporation, Share Capital, Management and Business.)

good signatures, one of which shall be that of a scheduled bank, <sup>1</sup>[or a provincial co-operative bank], and drawn or issued for the purpose of financing seasonal agricultural operations or the marketing of crops, and maturing within nine months from the date of such purchase or rediscount, exclusive of days of grace;

(c) the purchase, sale and rediscount of bills of exchange and promissory notes <sup>2</sup>[drawn <sup>3</sup>and payable in India]] and bearing the signature of a scheduled bank <sup>4</sup>\* \* \*, and issued or drawn for the purpose of holding or trading in securities of <sup>5</sup>[the Central Government, <sup>6</sup>or a Provincial Government]] or such securities of States in India as may be specified in this behalf by the <sup>7</sup>[Central Government] on the recommendation of the Central Board, and maturing within ninety days from the date of such purchase or rediscount, exclusive of days of grace;

(3) (a) the purchase from and sale to scheduled banks <sup>8</sup>\* \* \* of sterling in amounts of not less than the equivalent of one lakh of rupees;

(b) the purchase, sale and redi-count of bills of exchange (including treasury bills) drawn in or on any place in the United Kingdom and maturing within ninety days from the date of purchase, provided that no such purchase, sale or rediscount shall be made in India except with a scheduled bank <sup>9</sup>\* \* \* ;

(c) the keeping of balances with banks in the United Kingdom;

(d) the making to States in India, local authorities, scheduled banks <sup>10</sup>l. <sup>11</sup>\* \* \*, provincial co operative banks <sup>12</sup>l, <sup>13</sup>\* \* \* and the principal currency authority of Ceylon]] of loans and advances, repayable on demand or on the expiry of fixed periods not exceeding ninety days, against the security of—

<sup>1</sup> Subs. by the Reserve Bank of India (Amendment) Act, 1947 (II of 1947) s. 11 for "a Burma Scheduled Bank, a provincial co-operative bank, or a Burma co-operative bank" which had been subs. for "or a provincial co-operative bank" by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>2</sup> Subs. for "drawn and payable in India" by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>3</sup> Subs. by Act 11 of 1947, s. 11 for "either in India or Burma and payable either in India or Burma".

<sup>4</sup> The words "or a Burma Scheduled Bank" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, rep. by Act 11 of 1947, s. 11.

<sup>5</sup> Subs. for "the G. of I. or a L.G." by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>6</sup> Subs. by Act 11 of 1947, s. 11 for "a Provincial Government or the Government of Burma".

<sup>7</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G.G. in C".

<sup>8</sup> The words "and Burma Scheduled Banks" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by Act 11 of 1947, s. 11.

<sup>9</sup> The words "or in Burma except with a Scheduled bank or a Burma Scheduled bank; and" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by Act 11 of 1947, s. 11.

<sup>10</sup> Subs. for "and provincial co-operative banks" by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>11</sup> The words "Burma Scheduled Banks" rep. by Act 11 of 1947, s. 11.

<sup>12</sup> Subs. for "and Burma co-operative banks" by the Reserve Bank of India (Amendment) Act, 1940 (9 of 1940), s. 2.

<sup>13</sup> The words "Burma co-operative banks" rep. by Act 11 of 1947, s. 11.



## (Chapter II.—Incorporation, Share Capital, Management and Business.)

- (a) stocks, funds and securities (other than immovable property) in which a trustee is authorized to invest trust money by any Act of Parliament or by any law for the time being in force in <sup>1</sup>[the Provinces] <sup>2</sup>\* \* \* ;
- (b) gold or silver or documents of title to the same;
- (c) such bills of exchange and promissory notes as are eligible for purchase or rediscount by the Bank;
- (d) promissory notes of any scheduled bank <sup>3</sup>[<sup>4</sup>for provincial] co-operative bank], supported by documents of title to goods which have been transferred, assigned, or pledged to any such bank as security for a cash credit or overdraft granted for *bona fide* commercial or trade transactions, or for the purpose of financing seasonal agricultural operations or the marketing of crops;
- (5) the making to the <sup>5</sup>[Central Government] <sup>6</sup>[<sup>7</sup>\* \* \* <sup>8</sup>and Provincial Governments]] of advances repayable in each case not later than three months from the date of the making of the advance;
- (6) the issue of demand drafts made payable at its own offices or agencies and the making, issue and circulation of bank post bills;
- (8) the purchase and sale of securities <sup>10</sup>[of the Central <sup>11</sup>Government or a Provincial Government]] of any maturity or of such securities of a local authority <sup>12</sup>[or such Indian States] as may be specified in this behalf by the <sup>5</sup>[Central Government] on the recommendation of the Central Board:

Provided that securities fully guaranteed as to principal and interest by <sup>13</sup>[any such Government, authority or State] shall be deemed for the purposes of this clause to be securities of such Government, authority or State:

<sup>1</sup> Subs. by the A.O. 1948 for "British India".

<sup>2</sup> The words "or Burma" which had been inserted by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 11.

<sup>3</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "or a provincial co-operative bank".

<sup>4</sup> Subs. for "Burma scheduled bank, provincial co-operative bank or Burma" by Act 11 of 1947, s. 11.

<sup>5</sup> Subs. for "'G.G. in C.'" by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>6</sup> Subs. for "and to such Local Governments as may have the custody and management of their own provincial revenues", *ibid.*

<sup>7</sup> The words "the Federal Railway Authority" rep. by the A.O. 1948.

<sup>8</sup> Subs. by Act 11 of 1947, s. 11 for "Provincial Governments, the Government of Burma and the Burma Railway Board".

<sup>9</sup> Clause (7) rep. by the Repealing and Amending Act, 1947 (2 of 1948), 2 and Sch.

<sup>10</sup> Subs. for "of the G. of I. or of a L.G." by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>11</sup> Subs. by Act 11 of 1947, s. 11 for "Government, a provincial Government or the Government of Burma".

<sup>12</sup> Subs. for "in British India or of such States in India" by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>13</sup> Subs. for "the G. of I. a L.G., a Local Authority or a State in India", *ibid.*

*(Chapter II.—Incorporation, Share Capital, Management and Business.)*

Provided further that the amount of such securities held at any time in the Banking Department shall be so regulated that—

(a) the total value of such securities shall not exceed the aggregate amount of the share capital of the Bank, the Reserve Fund and three-fifths of the liabilities of the Banking Department in respect of deposits;

(b) the value of such securities maturing after one year shall not exceed the aggregate amount of the share capital of the Bank, the Reserve Fund and two-fifths of the liabilities of the Banking Department in respect of deposits; and

(c) the value of such securities maturing after ten years shall not exceed the aggregate amount of the share capital of the Bank and the Reserve Fund and one-fifth of the liabilities of the Banking Department in respect of deposits;

(9) the custody of monies, securities and other articles of value, and the collection of the proceeds, whether principal, interest or dividends, of any such securities;

(10) the sale and realisation of all property, whether movable or immovable, which may in any way come into the possession of the Bank in satisfaction, or part satisfaction, of any of its claims;

(11) the acting as agent for <sup>1</sup>\* \* \*, the <sup>2</sup>[Central Government] <sup>3</sup>[or any Provincial Government <sup>4</sup>\* \* \* or any local authority or any Indian State] in the transaction of any of the following kinds of business, namely :—

(a) the purchase and sale of gold or silver <sup>5</sup>[or foreign exchange];

(b) the purchase, sale, transfer and custody of bills of exchange, securities or shares in any company;

(c) the collection of the proceeds, whether principal, interest or dividends, of any securities or shares;

(d) the remittance of such proceeds, at the risk of the principal, by bills of exchange payable either in India or elsewhere;

(e) the management of public debt;

(12) the purchase and sale of gold coin and bullion <sup>5</sup>[and foreign exchange];

<sup>5</sup>[(12A) the purchase and sale of securities issued by the Government of any country outside India and expressed to be payable in a foreign currency.

<sup>1</sup> The words "the Secretary of State" which had been subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "the Secretary of State in Council" were rep. by the A.O. 1948.

<sup>2</sup> Subs. for "G.G. in C." by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>3</sup> Subs. for "or any L.G. or local authority or State in India", *ibid.*

<sup>4</sup> The words "or the Government of Burma" rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 11.

<sup>5</sup> Ins. by the Reserve Bank of India (Second Amendment) Act, 1947 (23 of 1947), s. 3.

*(Chapter II.—Incorporation, Share Capital, Management and Business.)*

being in the case of purchase by the Bank, securities maturing within a period of ten years from the date of purchase];

<sup>1</sup>[(13) the opening of an account with or the making of an agency agreement with, and the acting as agent or correspondent of, a bank incorporated in any country outside India or the principal currency authority of any country under the law for the time being in force in that country or any international bank formed by such principal currency authorities, and the investing of the funds of the Bank in the shares of any such international bank];

(14) the borrowing of money for a period not exceeding one month for the purposes of the business of the bank, and the giving of security for money so borrowed:

Provided that no money shall be borrowed under this clause from any person in India <sup>2</sup>\* \* \* other than a scheduled bank <sup>3</sup>\* \* \* or from any person outside India <sup>4</sup>\* \* \* other than a bank which is the principal currency authority of any country under the law for the time being in force in that country:

Provided further that the total amount of such borrowings from persons in India <sup>4</sup>\* \* \* shall not at any time exceed the amount of the share capital of the Bank;

(15) the making and issue of bank notes subject to the provisions of this Act <sup>5</sup>\* \* \* ; <sup>6</sup>\*

<sup>6</sup>[(15A) the performance of the functions of the Bank under the International Monetary Fund and Bank Ordinance, 1945];

**XLVII  
1945.**

(16) generally, the doing of all such matters and things as may be incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Act <sup>7</sup>\* \* \* \*.

Power of  
not  
count.

18. When, in the opinion of the Central Board or, where the powers and functions of the Central Board under this section have been delegated

<sup>1</sup> Subs., by the Reserve Bank of India (Second Amendment) Act, 1947 (23 of 1947), s. 3, for the original clause as amended by Act 9 of 1940.

<sup>2</sup> The words "or Burma" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 11.

<sup>3</sup> The words "or a Burma Scheduled Bank" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by Act 11 of 1947, s. 11.

<sup>4</sup> The words "and Burma" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, were rep. by Act 11 of 1947, s. 11.

<sup>5</sup> The words "and the making and issue of Burma notes in accordance with the law of Burma" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by Act 11 of 1947, s. 11.

<sup>6</sup> The word "and" rep. and clause (15A) ins. by the International Monetary Fund and Bank Ordinance, 1945 (47 of 1945), s. 6.

<sup>7</sup> The words "and the law of Burma" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by Act 11 of 1947, s. 11.

*(Chapter II.—Incorporation, Share Capital, Management and Business.)*

to a committee of the Central Board or to the Governor, in the opinion of such committee or of the Governor as the case may be, a special occasion has arisen making it necessary or expedient that action should be taken under this section for the purpose of regulating credit in the interests of Indian <sup>1</sup>\* \* \* trade, commerce, industry and agriculture, the Bank may, notwithstanding any limitation contained in sub-clauses (a) and (b) of clause (2) or sub-clause (a) or (b) of clause (3) or clause (4) of section 17,—

(1) purchase, sell or discount any of the bills of exchange or promissory notes specified in sub-clause (a) or (b) of clause (2) or sub-clause (b) of clause (3) of that section though such bill or promissory note does not bear the signature of a scheduled bank <sup>2</sup>or a provincial co-operative bank]; or

(2) purchase or sell sterling in amounts of not less than the equivalent of one lakh of rupees; or

(3) make loans or advances repayable on demand or on the expiry of fixed periods not exceeding ninety days against the various forms of security specified in clause (4) of that section:

Provided that a committee of the Board or the Governor shall not, save in cases of special urgency, authorize action under this section without prior consultation with the Central Board and that in all cases action so authorized shall be reported to the members of the Central Board forthwith.

19. Save as otherwise provided in sections 17, 18 and 45, the Bank may not—

**Business which the Bank may not transact.**

(1) engage in trade or otherwise have a direct interest in any commercial, industrial, or other undertaking except such interest as it may in any way acquire in the course of the satisfaction of any of its claims:

Provided that all such interests shall be disposed of at the earliest possible moment;

(2) purchase its own shares or the shares of any other bank or of any company, or grant loans upon the security of any such shares;

(3) advance money on mortgage of, or otherwise on the security of, immovable property or documents of title relating thereto, or become the owner of immovable property, except so far as is necessary for its own business premises and residences for its officers and servants;

(4) make loans or advances;

(5) draw or accept bills payable otherwise than on demand;

(6) allow interest on deposits or current accounts.

<sup>1</sup> The words "or Burman" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 12.

<sup>2</sup> Subs. by Act 11 of 1947, s. 12 for "a Burma Scheduled Bank, a provincial co-operative bank or a Burma co-operative bank" which had been subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III for "or a provincial co-operative bank".

## (Chapter III.—Central Banking Functions.)

## CHAPTER III.

## CENTRAL BANKING FUNCTIONS.

**Obligation of the Bank to transact Government business.**

20. The Bank shall undertake to accept monies for account of <sup>1</sup>[the Secretary of State, the Central Government, the Provincial Governments] and such States in India as may be approved of and notified by the <sup>2</sup>[Central Government] in the Gazette of India, and to make payments up to the amount standing to the credit of their accounts respectively, and to carry out their exchange, remittance and other banking operations, including the management of the public debt.

**Bank to have the right to transact Government business in India.**

21. (1) the <sup>2</sup>[Central Government] and <sup>3</sup>[the Provincial Governments] shall entrust the Bank, on such conditions as may be agreed upon, with all their money, remittance, exchange and banking transactions in India, and, in particular, shall deposit free of interest all their cash balances with the Bank:

Provided that nothing in this sub-section shall prevent the <sup>2</sup>[Central Government] or any <sup>4</sup>[Provincial Government] from carrying on money transactions at places where the Bank has no branches or agencies, and the <sup>2</sup>[Central Government] and <sup>5</sup>[the Provincial Governments] may hold at such places such balances as they may require.

(2) The <sup>2</sup>[Central Government] and each <sup>4</sup>[Provincial Government] shall entrust the Bank, on such conditions as may be agreed upon, with the management of the public debt and with the issue of any new loans.

(3) In the event of any failure to reach agreement on the conditions referred to in this section the <sup>2</sup>[Central Government] shall decide what the conditions shall be.

(4) Any agreement made under this section to which <sup>2</sup>[Central Government] or any <sup>4</sup>[Provincial Government] is a party shall be void, as soon as may be after it is made, before the Central Legislature and in the case of a <sup>4</sup>[Provincial Government] before <sup>6</sup>[the Provincial Legislature] also.

**Right to issue bank notes.**

22. (1) The Bank shall have the sole right to issue bank notes in <sup>7</sup>[the Provinces], and may, for a period which shall be fixed by the <sup>2</sup>[Central Government] on the recommendation of the Central Board, issue currency notes of the Government of India, supplied to it by the <sup>2</sup>[Central Government], and the provisions of this Act applicable to bank notes shall, unless a contrary intention appears, apply to all currency notes of the Government of India issued either by the <sup>2</sup>[Central Government] or by the Bank in like manner as if such currency notes were bank notes, and references in this Act to bank notes shall be construed accordingly.

<sup>1</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "the Secretary of State in Council and the G.G. in C. and such L.Gs. as may have the custody and management of their own provincial revenues".

<sup>2</sup> Subs. for "G. G. in C.", *ibid.*

<sup>3</sup> Subs. for "such L.Gs. as may have the custody and management of their own provincial revenues", *ibid.*

<sup>4</sup> Subs. for "L.G.", *ibid.*

<sup>5</sup> Subs. for "L.Gs.", *ibid.*

<sup>6</sup> Subs. for "its local legislature", *ibid.*

<sup>7</sup> Subs. by the A.O. 1948 for "British India".

## (Chapter III.—Central Banking Functions.)

(2) On and from the date on which this Chapter comes into force the [Central Government] shall not issue any currency notes.

23. (1) The issue of bank notes shall be conducted by the Bank in an Issue Department which shall be separated and kept wholly distinct from the Banking Department, and the assets of the Issue Department shall not be subject to any liability other than the liabilities of the Issue Department as hereinafter defined in section 34. Issue Department.

(2) The Issue Department shall not issue bank notes to the Banking Department or to any other person except in exchange for other bank notes or for such coin, bullion or securities as are permitted by this Act to form part of the Reserve.

2\*

\*

\*

\*

24. Bank notes shall be of the denominational values of five rupees, ten rupees, fifty rupees, one hundred rupees, five hundred rupees, one thousand rupees and ten thousand rupees, unless otherwise directed by the [Central Government] on the recommendation of the Central Board. Denominations of notes.

25. The design, form and material of bank notes shall be such as may be approved by the [Central Government] after consideration of the recommendations made by the Central Board. Form of Bank notes.

26. (1) Subject to the provisions of sub-section (2), every bank note shall be legal tender at any place in [the Provinces] in payment or on account for the amount expressed therein, and shall be guaranteed by the [Central Government]. Legal tender character of notes.

(2) On recommendation of the Central Board the [Central Government] may, by notification in the Gazette of India, declare that, with effect from such date as may be specified in the notification, any series of bank notes of any denomination shall cease to be legal tender save at an office or agency of the Bank.

4\*

\*

\*

\*

27. The Bank shall not re-issue bank notes which are torn, defaced or excessively soiled. Re-issue of notes.

28. 5\* \* Notwithstanding anything contained in any enactment or rule of law to the contrary, no person shall be entitled to recover from the [Central Government] or the Bank, the value of any lost, stolen, mutilated or imperfect. Recovery of notes lost, stolen, mutilated or imperfect.

<sup>1</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para 1 and Sch. III, for "G.G. in C."

<sup>2</sup> Sub-section (3) which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III was rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 13.

<sup>3</sup> Subs. by the A.O. 1948 for "British India".

<sup>4</sup> Sub-section (3) which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III was rep. by Act 11 of 1947, s. 14.

<sup>5</sup> The brackets and figure "(1)" and "sub-section (2)" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by Act 11 of 1947, s. 15.

## (Chapter III.—Central Banking Functions.)

mutilated or imperfect currency note of the Government of India, or bank note:

Provided that the Bank may, with the previous sanction of the <sup>1</sup>[Central Government], prescribe the circumstances in and the conditions and limitations subject to which the value of such currency notes or bank notes may be refunded as of grace and the rules made under this proviso shall be laid on the table <sup>2</sup>\* \* \* of the Central Legislature.

3\*

\*

\*

\*

Bank  
exempt  
from stamp  
duty on  
bank notes.

Powers of  
Central  
Govern-  
ment to  
supersede  
Central  
Board.

29. The Bank shall not be liable to the payment of any stamp duty under the Indian Stamp Act, 1899, in respect of bank notes <sup>4</sup>\* \* \* issued **II of 1** by it.

30. (1) If in the opinion of the <sup>1</sup>[Central Government] the Bank fails to carry out any of the obligations imposed on it by or under this Act <sup>5</sup>\* \* \* <sup>6</sup>[the Central Government] may, by notification in the Gazette of India, declare the Central Board to be superseded, and thereafter the general superintendence and direction of the affairs of the Bank shall be entrusted to such agency as the <sup>1</sup>[Central Government] may determine, and such agency may exercise the powers and do all acts and things which may be exercised or done by the Central Board under this Act.

(2) When action is taken under this section the <sup>1</sup>[Central Government] shall cause a full report of the circumstances leading to such action and of the action taken to be laid before the Central Legislature at the earliest possible opportunity and in any case within three months from the issue of the notification superseding the Board.

Issue of  
demand  
bills and  
notes.

31. <sup>7</sup>[(1)] No person in <sup>8</sup>[the Provinces] other than the Bank or, as expressly authorized by this Act, the <sup>1</sup>[Central Government] shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand of any such person:

Provided that cheques or drafts, including hundis, payable to bearer on demand or otherwise may be drawn on a person's account with a banker, shroff or agent.

<sup>1</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III for "G.G. in C."

<sup>2</sup> The words "of both houses" rep. by the A.O. 1948.

<sup>3</sup> The brackets and figure "(1)" and "sub-section (2)" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by Act 11 of 1947, s. 15.

<sup>4</sup> The words "or Burma notes" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 16.

<sup>5</sup> The words "or by or under the law of Burma" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by Act 11 of 1947, s. 17.

<sup>6</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III for "he".

<sup>7</sup> Section 31 was re-numbered as sub-section (1) and sub-section (2) inserted by the Reserve Bank of India (Amendment) Act, 1926 (23 of 1940), s. 2.

<sup>8</sup> Subs. by the A.O. 1948 for "British India".

XXVI of  
1931.

## (Chapter III.—Central Banking Functions.)

[<sup>1</sup>(2) Notwithstanding anything contained in the Negotiable Instruments Act, 1881, no person in <sup>2</sup>[the Provinces] other than the Bank or, as expressly authorised by this Act, the Central Government shall make or issue any promissory note expressed to be payable to the bearer of the instrument.]

32. (1) Any person contravening the provisions of section 31 shall be **Penalty.** punishable with fine which may extend to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed.

(2) No prosecution under this section shall be instituted except on complaint made by the Bank.

33. (1) The assets of the Issue Department shall consist of gold coin, gold bullion, sterling securities, rupee coin and rupee securities to such aggregate amount as is not less than the total of the liabilities of the Issue Department as hereinafter defined. **Assets of the Issue Department.**

(2) Of the total amount of the assets, not less than two-fifths shall consist of gold coin, gold bullion or sterling securities:

Provided that the amount of gold coin and gold bullion shall not at any time be less than forty crores of rupees in value.

(3) The remainder of the assets shall be held in rupee coin, Government of India rupee securities of any maturity and such bills of exchange and promissory notes payable in <sup>2</sup>[the Provinces] <sup>3</sup>\* \* \* :s are eligible for purchase by the Bank under sub-clause (a) or sub-clause (b) of clause (2) of section 17 or under clause (1) of section 18:

4\*

\*

\*

\*

(4) For the purposes of this section, gold coin and gold bullion shall be valued at 8.47512 grains of fine gold per rupee, rupee coin shall be valued at its face value, and securities shall be valued at the market rate for the time being obtaining.

(5) Of the gold coin and gold bullion held as assets, not less than seventeen-twentieths shall be held in <sup>2</sup>[the Provinces], and all gold coin and gold bullion held as assets shall be held in the custody of the Bank or its agencies:

Provided that gold belonging to the Bank which is in any other bank or in any mint or treasury or in transit may be reckoned as part of the assets.

(6) For the purposes of this section, the sterling securities which may be held as part of the assets shall be securities of any of the following kinds payable in the currency of the United Kingdom, namely:—

<sup>1</sup>Section 31 was re-numbered as sub-section (1) and sub-section (2) inserted by the Reserve Bank of India (Amendment) Act, 1946, (23 of 1946), s. 2.

<sup>2</sup>Subs. by the A.O. 1948 for "British India".

<sup>3</sup>The words "or in Burma" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 18.

<sup>4</sup>The proviso was rep. by the Reserve Bank of India (Amendment) Ordinance, 1941 (3 of 1941).



## (Chapter III.—Central Banking Functions.)

- (a) balances at the credit of the Issue Department with the Bank of England;
- (b) bills of exchange bearing two or more good signatures and drawn on and payable at any place in the United Kingdom and having a maturity not exceeding ninety days;
- (c) Government securities of the United Kingdom maturing within five years:

Provided that, for a period of two years from the date on which this Chapter comes into force, any of such last mentioned securities may be securities maturing after five years, and the Bank may, at any time before the expiry of that period, dispose of such securities notwithstanding anything contained in section 17.

**Liabilities  
of the Issue  
Department.**

34. (1) The liabilities of the Issue Department shall be an amount equal to the total of the amount of the currency notes of the Government of India and bank notes for the time being in circulation.

(2) For the purposes of this section, any currency note of the Government of India or bank note which has not been presented for payment within forty years from the 1st day of April following the date of its issue shall be deemed not to be in circulation, and the value thereof shall, notwithstanding anything contained in sub-section (2) of section 23, be paid by the Issue Department to the <sup>1</sup>[Central Government] or the Banking Department, as the case may be; but any such note, if subsequently presented for payment, shall be paid by the Banking Department, and any such payment in the case of a currency note of the Government of India shall be debited to the <sup>1</sup>[Central Government].

2\*

\*

\*

\*

**Initial assets  
and liabilities.**

35. On the date on which this Chapter comes into force the Issue Department shall take over from the <sup>1</sup>[Central Government] the liability for all the currency notes of the Government of India for the time being in circulation and the <sup>1</sup>[Central Government] shall transfer to the Issue Department gold coin, gold bullion, sterling securities, rupee coin and rupee securities to such aggregate amount as is equal to the total of the amount of the liability so transferred. The coin, bullion and securities shall be transferred in such proportion as to comply with the requirements of section 33:

Provided that the total amount of the gold coin, gold bullion and sterling securities so transferred shall not be less than one-half of the whole amount transferred, and that the amount of rupee coin so transferred shall not exceed fifty crores of rupees:

Provided further that the whole of the gold coin and gold bullion held by the <sup>1</sup>[Central Government] in the gold standard reserve and the paper currency reserve at the time of transfer shall be so transferred.

<sup>1</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G.G. in C".

<sup>2</sup> Sub-section (3) which had been ins. by *ibid* was rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947) s. 19.

## (Chapter III.—Central Banking Functions.)

36. (1) After the close of any financial year in which the minimum amount of rupee coin held in the assets, as shown in any of the weekly accounts of the Issue Department for that year prescribed under sub-section (1) of section 53 is greater than fifty crores of rupees or one-sixth of the total amount\* of the assets as shown in that account, whichever may be the greater, the Bank may deliver to the <sup>1</sup>[Central Government] rupee coin up to the amount of such excess but not <sup>2</sup>[without that Government's consent] exceeding five crores of rupees, against payment of legal tender value in the form of bank notes, gold or securities:

Method of dealing with fluctuations in rupee coin assets.

Provided that if the Bank so desires and if the amount of gold coin, gold bullion and sterling securities in the assets does not at that time exceed one-half of the total assets, a proportion not exceeding two fifths of such payment shall be in gold coin, gold bullion or such sterling securities as may be held as part of the assets under sub-section (6) of section 33.

(2) After the close of any financial year in which the maximum amount of rupee coin held in the assets, as so shown, is less than fifty crores of rupees or one-sixth of the total amount of the assets, as so shown, whichever may be the greater, the <sup>1</sup>[Central Government] shall deliver to the Bank rupee coin up to the amount of such deficiency, but not without its consent exceeding five crores of rupees, against payment of legal tender value.

<sup>3</sup>[(3) At the close of any week in which the amount of rupee coin held in the assets, as shown in the weekly accounts of the Issue Department for that week, is less than fifty crores of rupees or one-sixth of the total amount of the assets as so shown, whichever may be the greater, the Central Government may, with the consent of the Bank, deliver to the Bank rupee coin up to the amount of such deficiency against payment of legal tender value.]

37. (1) Notwithstanding anything contained in the foregoing provisions, the Bank may, with the previous sanction of the <sup>1</sup>[Central Government], for periods not exceeding thirty days in the first instance, which may, with the like sanction, be extended from time to time by periods not exceeding fifteen days, hold as assets gold coin, gold bullion or sterling securities of less aggregate amount than that required by sub-section (2) of section 33 and, whilst the holding is so reduced, the proviso to that sub-section shall cease to be operative:

Suspension of assets requirements.

Provided that the gold coin and gold bullion held as such assets shall not be reduced below the amount specified in the proviso to sub-section (2) of section 33 so long as any sterling securities remain held as such assets.

(2) In respect of any period during which the holding of gold coin, gold bullion and sterling securities is reduced under sub-section (1), the Bank shall pay to the <sup>1</sup>[Central Government] a tax upon the amount by which

<sup>1</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C".

<sup>2</sup> Subs., *ibid.*, for "without his consent".

<sup>3</sup> Ins. by the Currency Ordinance, 1940 (4 of 1940), s. 3.

## (Chapter III.—Central Banking Functions.)

such holding is reduced below the minimum prescribed by sub-section (2) of section 33; and such tax shall be payable at the bank rate for the time being in force, with an addition of one per cent. per annum when such holding exceeds thirty-two and a half per cent. of the total amount of the assets and of a further one and a half per cent. per annum in respect of every further decrease of two and a half per cent. or part of such decrease:

Provided that the tax shall not in any event be payable at a rate less than six per cent. per annum.

Obligations  
of Govern-  
ment and  
the Bank in  
respect of  
rupee coin.

38. The <sup>1</sup>[Central Government] shall undertake not to re-issue any rupee coin delivered under section 36 nor to put into circulation any rupees, except through the Bank <sup>2</sup>\* \* \* ; and the Bank shall undertake not to dispose of rupee coin otherwise than for the purposes of circulation or by delivery to the <sup>3</sup>[Central Government] under that section.

Obligation  
to supply  
different  
forms of  
currency.

39. (1) The Bank shall issue rupee coin on demand in exchange for bank notes and currency notes of the Government of India, and shall issue currency notes or bank notes on demand in exchange for coin which is legal tender under the Indian Coinage Act, 1906.

III of 1906

(2) The Bank shall, in exchange for currency notes or bank notes of five rupees or upwards, supply currency notes or bank notes of lower value or other coins which are legal tender under the Indian Coinage Act, 1906 (III of 1906), in such quantities as may, in the opinion of the Bank, be required for circulation; and the <sup>1</sup>[Central Government] shall supply such coins to the Bank on demand. If the <sup>1</sup>[Central Government] at any time fails to supply such coins, the Bank shall be released from its obligations to supply them to the public.

Transac-  
tions in  
foreign  
exchange.

<sup>3</sup>40. The Bank shall sell to or buy from any authorised person who makes a demand in that behalf at its office in Bombay, Calcutta, Delhi or Madras, foreign exchange at such rates of exchange and on such conditions as the Central Government may from time to time by general or special order determine, having regard so far as rates of exchange are concerned to its obligations to the International Monetary Fund:

Provided that no person shall be entitled to demand to buy or sell foreign exchange of a value less than two lakhs of rupees.

*Explanation.*—In this section “authorised person” means a person who is entitled by or under the Foreign Exchange Regulation Act, 1947, to buy, or as the case may be, sell, the foreign exchange to which his demand relates.]

\* \* \*

\*

\*

\*

\*

41A. [Obligation to provide remittance between India and Burma.]  
Rep. by the Reserve Bank of India (Amendment) Act, 1947 (II of 1947),  
s. 22.

<sup>1</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for “G.G. in C”.

<sup>2</sup> The words “and as provided in that section” rep. by the Currency Ordinance, 1940 (4 of 1940), s. 3.

<sup>3</sup> Subs. by the Reserve Bank of India (Second Amendment) Act, 1947 (23 of 1947), s. 4, for the original sections 40 and 41.

## (Chapter III.—Central Banking Functions.)

42. (1) Every bank included in the Second Schedule shall maintain with the Bank a balance the amount of which shall not at the close of business on any day be less than five per cent. of the demand liabilities and two per cent. of the time liabilities of such bank in India <sup>1</sup> \* \* \* as shown in the return referred to in sub-section (2).

Cash reserves of scheduled banks to be kept with the Bank.

*Explanation.*—For the purposes of this section liabilities shall not include the paid-up capital or the reserves, or any credit balance in the profit and loss account of the bank or the amount of any loan taken from the Reserve Bank.

(2) Every scheduled bank shall send to the <sup>2</sup>(Central Government] and to the Bank a return signed by two responsible officers of such bank showing—

<sup>3</sup>[(a) the amounts of its demand and time liabilities, respectively, in India,

<sup>3</sup>[(b) the total amount held in India in currency notes of the Government of India and bank notes,

(c) the amounts held in India in rupee coin and subsidiary coin, respectively,

(d) the amounts of advances made and of bills discounted in India, respectively,

(e) the balance held at the Bank.] ]

at the close of business on each Friday, or if Friday is a public holiday under the Negotiable Instruments Act, 1881, at the close of business on the preceding working day; and such return shall be sent not later than two working days after the date to which it relates :

XXVI of  
1881.

Provided that where the Bank is satisfied that the furnishing of a weekly return under this sub-section is impracticable in the case of any scheduled bank by reason of the geographical position of the bank and its branches, the Bank may require such bank to furnish in lieu of a weekly return a monthly return to be dispatched not later than fourteen days after the end of the month to which it relates giving the details specified in this sub-section in respect of such bank at the close of business for the month.

(3) If at the close of business on any day before the day fixed for the next return, the balance held at the Bank by any scheduled bank is below the minimum prescribed in sub-section (1), such scheduled bank shall be

<sup>1</sup> The words "and Burma" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 23.

<sup>2</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C."

<sup>3</sup> Clauses (a) to (k) were subs. for the original clauses (a) to (e) by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III and clauses (b) to (e) subs. for clauses (b) to (k) by Act 11 of 1947, s. 23.

*(Chapter III.—Central Banking Functions.)*

liable to pay to the Bank in respect of each such day penal interest at a rate three per cent. above the bank rate on the amount by which the balance with the Bank falls short of the prescribed minimum, and if on the day fixed for the next return such balance is still below the prescribed minimum as disclosed by this return, the rates of penal interest shall be increased to a rate five per cent. above the bank rate in respect of that day and each subsequent day on which the balance held at the Bank at the close of business on that day is below the prescribed minimum.

<sup>1</sup>[(3A) When under the provisions of sub-section (3) penal interest at the increased rate of five per cent. above the bank rate has become payable by a scheduled bank, if thereafter on the day fixed for the next return the balance held at the Bank is still below the prescribed minimum as disclosed by this return,—

(a) every director and any managing agent, manager or secretary of the scheduled bank, who is knowingly and wilfully a party to the default, shall be punishable with fine which may extend to five hundred rupees and with a further fine which may extend to five hundred rupees for each subsequent day on which the default continues, and

(b) the Bank may prohibit the scheduled bank from receiving after the said day any fresh deposit,

and, if default is made by the scheduled bank in complying with the prohibition referred to in clause (b), every director and officer of the scheduled bank who is knowingly and wilfully a party to such default or who through negligence or otherwise contributes to such default shall in respect of each such default be punishable with fine which may extend to five hundred rupees and with a further fine which may extend to five hundred rupees for each day after the first on which a deposit received in contravention of such prohibition is retained by the scheduled bank.

*Explanation.*—In this sub-section “officer” includes a managing agent, manager, secretary, branch manager, and branch secretary.]

(4) Any scheduled bank failing to comply with the provisions of sub-section (2) shall be liable to pay to the <sup>2</sup>[Central Government] or to the Bank, as the case may be, or to each, a penalty of one hundred rupees for each day during which the failure continues.

(5) The penalties imposed by sub-sections (3) and (4) shall be payable on demand made by the Bank, and, in the event of a refusal by the defaulting bank to pay on such demand, may be levied by a direction of the principal Civil Court having jurisdiction in the area where an office of the defaulting bank is situated, such direction to be made only upon application made in this behalf to the Court by the <sup>2</sup>[Central Government] in the case of a failure to make a return under sub-section (2) to the <sup>2</sup>[Central Government], or by the Bank with the previous sanction of the <sup>2</sup>[Central Government] in other cases.

<sup>1</sup> Ins. by the Reserve Bank of India (Third Amendment) Act, 1940 (38 of 1940), s. 2.

<sup>2</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for “G. G. in C.”

## (Chapter III.—Central Banking Functions.)

(6) The <sup>1</sup>[Central Government] shall, by notification in the Gazette of India, direct the inclusion in the Second Schedule of any bank not already so included which carries on the business of banking in <sup>2</sup>[the Provinces] and which—

(a) has a paid-up capital and reserves of an aggregate value of not less than five lakhs of rupees, and

o 1913.

(b) is a company as defined in clause (2) of section 2 of the Indian Companies Act, 1913, or a corporation or a company incorporated by or under any law in force in any place outside <sup>2</sup>[the Provinces], and shall by a like notification direct the exclusion from that Schedule of any scheduled bank the aggregate value of whose paid-up capital and reserves becomes at any time less than five lakhs of rupees, or which goes into liquidation or otherwise ceases to carry on banking business.

43. The Bank shall compile and shall cause to be published each week a consolidated statement showing the aggregate of the amounts under each clause of sub-section (2) of section 42 exhibited in the returns received from scheduled banks under that section 3\* \* \*

Publica-  
tion of con-  
solidated  
statement  
by the  
Bank.

44. The Bank may require any provincial co-operative bank with which it has any transactions under section 17 to furnish the return referred to in sub-section (2) of section 42, and if it does so, the provisions of sub-sections (4) and (5) of section 42 shall apply so far as may be to such co-operative bank as if it were a scheduled bank.

Power to  
require re-  
turns from  
co-operative  
banks.

45. (1) The Bank shall enter into an agreement with the Imperial Bank of India which shall be subject to the approval of the <sup>1</sup>[Central Government] and shall be expressed to come into force on the date on which this Chapter comes into force and to remain in force for fifteen years and thereafter until terminated after five years' notice on either side, and shall further contain the provisions set forth in the Third Schedule:

Agreement  
with the  
Imperial  
Bank.

Provided that the agreement shall be conditional on the maintenance of a sound financial position by the Imperial Bank and that if, in the opinion of the Central Board, the Imperial Bank has failed either to fulfil the conditions of the agreement or to maintain a sound financial position, the Central Board shall make a recommendation to the <sup>1</sup>[Central Government] and the <sup>1</sup>[Central Government], after making such further inquiry as <sup>4</sup>[it thinks fit], may issue instructions to the Imperial Bank with reference either to the agreement or to any matter which <sup>5</sup>[in its opinion] involves the security of the Government monies or the assets of the Issue Department in the custody of the Imperial Bank, and in the event of the Imperial Bank disregarding such instructions may declare the agreement to be terminated.

<sup>1</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C".

<sup>2</sup> Subs. by the A.O. 1948 for "British India".

<sup>3</sup> The words "and from Burma Scheduled Banks under the corresponding provisions of the law of Burma" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 24.

<sup>4</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "he thinks fit".

<sup>5</sup> Subs. *ibid*, for "in his opinion".

*(Chapter III.—Central Banking Functions. Chapter IV.—General Provisions.)*

(2) The agreement referred to in sub-section (1) shall, as soon as may be after it is made, be laid before the Central Legislature.

[(3) As from the commencement<sup>2</sup> of Part III of the Government of India Act, 1935 references in the said agreement to the Governor-General in Council in relation to his general banking business, his accounts, and sums due to or from him, and references to Government in relation to receipts and disbursements dealt with on account of Government shall be construed as including references to the Provincial Governments <sup>3</sup>\* \* \* .]

## CHAPTER IV

### GENERAL PROVISIONS.

**Contribution by Central Government to the Reserve Fund.**

46. The [Central Government] shall transfer to the Bank rupee securities of the value of five crores of rupees to be allocated by the Bank to the Reserve Fund.

**Allocation of surplus.**

\*47. After making provision for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds, and such other contingencies as are usually provided for by bankers, and after payment out of the net annual profits of a cumulative dividend at such rate not exceeding five per cent. per annum on the share capital as the [Central Government] may fix at the time of the issue of shares, a portion of the surplus shall be allocated to the payment of an additional dividend to the shareholders calculated on the scale set forth in the Fourth Schedule and the balance of the surplus shall be paid to the [Central Government]:

Provided that if at any time the Reserve Fund is less than the share capital, not less than fifty lakhs of rupees of the surplus, or the whole of the surplus if less than that amount, shall be allocated to the Reserve Fund.

**Exemption of Bank from income-tax and super-tax and provision for deduction at source of income-tax on dividends.**

48. (1) Notwithstanding anything contained in the Indian Income-tax Act, 1922, or any other enactment for the time being in force relating to income-tax or super-tax, the Bank shall not be liable to pay income-tax or super-tax on any of its income, profits or gains: XI of 1922.

Provided that nothing in this section shall affect the liability of any shareholder in respect of income-tax or super-tax.

(2) For the purposes of section 18 of the Indian Income-tax Act, 1922 XI of 1922, and of any other relevant provision of that Act relating to the levy and refund of income-tax any dividend paid under section 47 of this Act shall be deemed to be "Interest on Securities".

**Publication of bank rate.**

49. The Bank shall make public from time to time the standard rate at which it is prepared to buy or re-discount bills of exchange or other commercial paper eligible for purchase under this Act.

<sup>1</sup> Ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.

<sup>2</sup> Pt. III of the G. of I. Act, 1935, came into force on the 1st April, 1937.

<sup>3</sup> The words "and the Federal Railway Authority" rep. by the A.O. 1948.

<sup>4</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C.".

\* See also ss. 5 and 6 of Act 7 of 1940 and s. 2 of Ordinance 20 of 1943.

## (Chapter IV.—General Provisions.)

50. (1) Not less than two auditors shall be elected and their remuneration fixed at the annual general meeting. The auditors may be shareholders but no Director or other officer of the Bank shall be eligible during his continuance in office. Any auditor shall be eligible for re-election on quitting office. **Auditors.**

(2) The first auditors of the Bank may be appointed by the Central Board before the first annual general meeting and, if so appointed, shall hold office only until that meeting. All auditors elected under this section shall severally be, and continue to act as, auditors until the first annual general meeting after their respective elections:

Provided that any casual vacancy in the office of any auditor elected under this section may be filled by the Central Board.

51. Without prejudice to anything contained in section 50, the <sup>1</sup>[Central Government] may at any time appoint the Auditor General or such auditors as <sup>2</sup>[it thinks fit] to examine and report upon the accounts of the Bank. **Appointment of special auditors by Government.**

\*52. (1) Every auditor shall be supplied with a copy of the annual balance-sheet, and it shall be his duty to examine the same, together with the accounts and vouchers relating thereto; and every auditor shall have a list delivered to him of all books kept by the Bank, and shall at all reasonable times have access to the books, accounts and other documents of the Bank, and may, at the expense of the Bank if appointed by it or at the expense of the <sup>1</sup>[Central Government] if appointed <sup>3</sup>[by that Government], employ accountants or other persons to assist him in investigating such accounts, and may, in relation to such accounts, examine any Director or officer of the Bank. **Powers and duties of auditors.**

(2) The auditors shall make a report to the shareholders or to the <sup>1</sup>[Central Government] as the case may be, upon the annual balance-sheet and accounts, and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the Bank's affairs, and, in case they have called for any explanation or information from the Central Board, whether it has been given and whether it is satisfactory. Any such report made to the shareholders shall be read, together with the report of the Central Board, at the annual general meeting.

53. (1) The Bank shall prepare and transmit to the <sup>1</sup>[Central Government] a weekly account of the Issue Department and of the Banking Department in <sup>4</sup>[such] form as the <sup>1</sup>[Central Government] may, by notification in the Gazette of India, prescribe. The <sup>1</sup>[Central Government] shall cause these accounts to be published weekly in the Gazette of India. **Returns.**

<sup>1</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III. for "G. G. in C.".

<sup>2</sup> Subs. *ibid.* for "he thinks fit".

<sup>3</sup> Subs. *ibid.* for "by him".

<sup>4</sup> Subs. *ibid.* for "the form set out in the Fifth Sch. or in such other".

\* See also s. 4 of Act 7 of 1940.



## (Chapter IV.—General Provisions.)

\*(2) The Bank shall also, within two months from the date on which the annual accounts of the Bank are closed, transmit to the <sup>1</sup>[Central Government] a copy of the annual accounts signed by the Governor, the Deputy Governors and the Chief Accounting Officer of the Bank, and certified by the auditors, together with a report by the Central Board on the working of the Bank throughout the year, and the <sup>1</sup>[Central Government] shall cause such accounts and report to be published in the Gazette of India.

\*(3) The Bank shall also, within two months from the date on which the annual accounts of the Bank are closed, transmit to the <sup>1</sup>[Central Government] a statement showing the name, address and occupation of, and the number of shares held by, each shareholder of the Bank.

**Agricultural Credit Department.**

54. The Bank shall create a special Agricultural Credit Department the functions of which shall be—

- (a) to maintain an expert staff to study all questions of agricultural credit and be available for consultation by the <sup>1</sup>[Central Government], <sup>2</sup>[Provincial Governments, <sup>3</sup>\* \* \*], provincial co-operative banks <sup>4</sup>\* \* \* and other banking organisations.
- (b) to co-ordinate the operations of the Bank in connection with agricultural credit and its relations with provincial co-operative banks <sup>4</sup>\* \* \* and any other banks or organisations engaged in the business of agricultural credit.

**Reports by the Bank.**

55. (1) The Bank shall, at the earliest practicable date and in any case within three years from the date on which this Chapter comes into force, make to the <sup>1</sup>[Central Government] a report, with proposals, if it thinks fit, for legislation, on the following matters, namely:—

- (a) the extension of the provisions of this Act relating to scheduled banks to persons and firms, not being scheduled banks, engaged in <sup>5</sup>[the Provinces] in the business of banking, and
- (b) the improvement of the machinery for dealing with agricultural finance and methods for effecting a closer connection between agricultural enterprise and the operations of the Bank.

(2) When the Bank is of opinion that the international monetary position has become sufficiently clear and stable to make it possible to determine what will be suitable as a permanent basis for the Indian monetary system and to frame permanent measures for a monetary standard it shall report its views to the <sup>1</sup>[Central Government].

<sup>1</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C.".

<sup>2</sup> Subs. for "Local Governments", *ibid.*

<sup>3</sup> The words "the Government of Burma" rep. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 25.

<sup>4</sup> The words "Burma Co-operative Banks" which had been ins. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III were rep. by Act 11 of 1947, s. 25.

<sup>5</sup> Subs. by the A.O. 1948 for "British India".

\* See also s. 4 of Act 7 of 1940.

*(Chapter IV.—General Provisions.)*

56. (1) The Local Board of any area may at any time require any shareholder who is registered on the register for that area to furnish to the Local Board within a specified time, not being less than thirty days, a declaration, in such form as the Central Board may by regulations prescribe, giving particulars of all shares on the said register of which he is the owner. Power to require declaration as to ownership of registered shares.

(2) If it appears from such declaration that any shareholder is not the owner of any shares which are registered in his name, [or that any shareholder, to whom the provisions of sub-section (4A) of section 4 apply, is the holder of shares in excess of a total nominal value of twenty thousand rupees] the Local Board may amend the register accordingly.

(3) If any person required to make a declaration under sub-section (1) fails to make such declaration within the specified time, the Local Board may make an entry against his name in the register recording such failure and directing that he shall have no right to vote, either under section 9 or section 14, by reason of the shares registered in his name on that register.

(4) Whoever makes a false statement in any declaration furnished by him under sub-section (1) shall be deemed to have committed the offence of giving false evidence defined in section 191 of the Indian Penal Code, and shall be punishable under the second paragraph of section 193 of that Code.

(5) Nothing contained in any declaration furnished under sub-section (1) shall operate to affect the Bank with notice of any trust, and no notice of any trust expressed, implied or constructive shall be entered on the register or be receivable by the Bank.

(6) Until Local Boards have been constituted under section 9 the powers of a Local Board under this section shall be exercised by the Central Board in respect of any area for which a Local Board has not been constituted.

XLV of 1860.

57. (1) Nothing in the Indian Companies Act, 1913, shall apply to the Bank, and the Bank shall not be placed in liquidation save by order of the [Central Government] and in such manner as [it may direct].

Liquidation of the Bank.

(2) In such event the Reserve Fund and surplus assets, if any, of the Bank shall be divided between the [Central Government] and the shareholders in the proportion of seventy-five per cent. and twenty-five per cent., respectively:

Provided that the total amount payable to any shareholder under this section shall not exceed the paid-up value of the shares held by him by more than one per cent. for each year after the commencement of this Act subject to a maximum of twenty-five per cent.

<sup>1</sup> Ins. by the Reserve Bank of India (Second Amendment) Act, 1940 (19 of 1940) s. 3.

<sup>2</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C.".

<sup>3</sup> Subs. for "he may direct", *ibid*.

## (Chapter IV.—General Provisions.)

Power of  
the Central  
Board to  
make regu-  
lations.

58. (1) The Central Board may, with the previous sanction of the [Central Government], make regulations consistent with this Act to provide for all matters for which provision is necessary or convenient for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such regulations may provide for all or any of the following matters, namely:—

- (a) the holding and conduct of elections under this Act, including provisions for the holding of any elections according to the principle of proportional representation by means of the single transferable vote;
- (b) the final decision of doubts or disputes regarding the qualifications of candidates for election or regarding the validity of elections;
- (c) the maintenance of the share register, the manner in which and the conditions subject to which shares may be held and transferred, and, generally, all matters relating to the rights and duties of shareholders;
- (d) the manner in which general meetings shall be convened, the procedure to be followed thereat and the manner in which votes may be exercised;
- (e) the manner in which notices may be served on behalf of the Bank upon shareholders or other persons;
- (f) the manner in which the business of the Central Board shall be transacted, and the procedure to be followed at meetings thereof;
- (g) the conduct of business of Local Boards and the delegation to such Boards of powers and functions;
- (h) the delegation of powers and functions of the Central Board to the Governor, or to Deputy Governors, Directors or officers of the Bank;
- (i) the formation of Committees of the Central Board, the delegation of powers and functions of the Central Board to such Committees, and the conduct of business in such Committees;
- (j) the constitution and management of staff and superannuation funds for the officers and servants of the Bank;
- (k) the manner and form in which contracts binding on the Bank may be executed;
- (l) the provision of an official seal of the Bank and the manner and effect of its use;

<sup>1</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C.".

*(Chapter IV.—General Provisions. The First Schedule ,*

- (m) the manner and form in which the balance-sheet of the Bank shall be drawn up, and in which the accounts shall be maintained;
- (n) the remuneration of Directors of the Bank;
- (o) the relations of the scheduled banks with the Bank and the returns to be submitted by the scheduled banks to the Bank;
- (p) the regulation of clearing-houses for the scheduled banks;
- (q) the circumstances in which, and the conditions and limitations subject to which, the value of any lost, stolen, mutilated or imperfect currency note of the Government of India or bank note may be refunded; and
- (r) generally, for the efficient conduct of the business of the Bank.

(3) Copies of all regulations made under this section shall be available to the public on payment.

**59 to 61.** [*Amendment of Act III of 1906. Repeals. Amendment of section 11, Act VII of 1913.*] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

## THE FIRST SCHEDULE.

(See section 4.)

## Areas served by the various Share Registers.

I. The WESTERN AREA, served by the BOMBAY Register, shall consist of—

<sup>1</sup>[the Province of Bombay], the Central Provinces, Berar, Hyderabad, Baroda, <sup>2</sup>\* \* the Western India States, the Central India States (including Makrai but excluding Rewah and other States of Bundelkhand and Baghelkhand), the Gujarat States, Kolhapur and the Deccan States <sup>3</sup>[and until the 30th day of June, 1948, the Province of Sind and the State of Khairpur in Pakistan];

II. The EASTERN AREA, served by the CALCUTTA Register, shall consist of—

<sup>4</sup>[West Bengal, Bihar, Orissa], Assam, <sup>5</sup>[the Andaman and Nicobar Islands,] Sikkim, Manipur, Cooch-Bihar, Tripura, the Eastern States, Rewah and other States of Bundelkhand and Baghelkhand, and the Khasi States <sup>3</sup>[and until the 30th day of June, 1948, the Province of East Bengal in Pakistan];

<sup>1</sup> Subs. by the A.O. 1948 for "the Bombay Presidency including Sind".

<sup>2</sup> The word "Khairpur" rep. by the A.O. 1948.

<sup>3</sup> Ins. by the A.O. 1948.

<sup>4</sup> Subs. by the A.O. 1948 for "the Bengal Presidency, Bihar and Orissa".

<sup>5</sup> Ins. by the Reserve Bank of India (Amendment) Act, 1947 (11 of 1947), s. 26.

*(The First Schedule and the Second Schedule.)*

III. The NORTHERN AREA, served by the DELHI Register, shall consist of—

the United Provinces, Delhi, <sup>1</sup>[East Punjab], <sup>2</sup>\* \* \* Ajmer-Merwara, <sup>3</sup>\* Kashmir, <sup>4</sup>[East Punjab States], the Simla Hill States, Dujana, Pataudi, Kalsia, Rampur, Tehri-Garhwal, Benares, the Rajputana States including Palanpur and Danta, Gwalior, <sup>5</sup>[and Khaniadhana, and until the 30th day of June 1948, the North-West Frontier Province and Baluchistan and the States of Bahawalpur], Kalat, Las Bela, Hunza, Nagir, Amb, Chitral, Dir, Phulera and Swat;

IV. The SOUTHERN AREA, served by the MADRAS Register, shall consist of—

the Madras Presidency, Coorg, Mysore and the Madras States.

b \*

\*

\*

\*

\*

### THE SECOND SCHEDULE.

[Sec section 42 and section 2 (c).]

#### Scheduled Banks.

Ajodhia Bank, Fyzabad.  
 Allahabad Bank.  
 American Express Company Incorporated.  
 Banco Nacional Ultramarino.  
 Bank of Baroda.  
 Bank of Behar.  
 Bank of Hindustan, Madras.  
 Bank of India, Bombay.  
 Bengal Central Bank.  
 Canara Bank.  
 Central Bank of India.  
 Chartered Bank of India, Australia and China.  
 Comptoir National d'Escompte de Paris.  
 Eastern Bank.  
 Grindlay and Company.  
 Hongkong and Shanghai Banking Corporation.  
 Imperial Bank of India.  
 Indian Bank, Madras.  
 Karnani Industrial Bank.  
 Lloyds Bank.  
 Mercantile Bank of India.  
 National Bank of India.  
 National City Bank of New York.

<sup>1</sup> Subs. by the A.O. 1948 for "the Punjab".

<sup>2</sup> The words "the North-West Frontier Province" rep. by the A.O. 1948.

<sup>3</sup> The word "Baluchistan" rep. by the A.O. 1948.

<sup>4</sup> Subs. by the A.O. 1948 for "the Punjab States, excluding Khairpur".

<sup>5</sup> Subs. by the A. O. 1948 for "Khaniadhana".

<sup>6</sup> Entry V as amended by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III was rep. by Act 11 of 1947, s. 28.

*(The Second Schedule.)*

Nederlandsche Indische Handels-bank.  
 Nederlandsche Handel-Maatschappij.  
 Nedungadi Bank, Calicut.  
 Oudh Commercial Bank.  
 Punjab and Sind Bank, Amritsar.  
 Punjab Co-operative Bank, Amritsar.  
 Punjab National Bank, Lahore.  
 Union Bank of India, Bombay.  
 Quilon Bank, Quilon, South India.  
 Nadar Bank, Tuticorin.  
 Comilla Union Bank, Comilla.  
 Indo-Commercial Bank, Mayavaram.  
 Comilla Banking Corporation, Comilla.  
 Canara Banking Corporation, Udipi.  
 Canara Industrial and Banking Syndicate, Udipi.  
 Indian Overseas Bank, Madras.  
 Mahaluxmi Bank, Chittagong.  
 Nath Bank, Calcutta.  
 Palai Central Bank, Palai.  
 Calcutta National Bank, Calcutta.  
 Devakaram Nanjee Banking Company, Bombay.  
 Jwala Bank Ltd., Agra.  
 New Citizen Bank of India, Bombay.  
 Pioneer Bank, Comilla.  
 New Standard Bank, Comilla.  
 Calcutta Commercial Bank, Calcutta.  
 Noakhali Union Bank, Calcutta.  
 United Industrial Bank, Calcutta.  
 Dinajpore Bank, Dinajpore.  
 Laxmi Bank, Akola.  
 Bank of China, Calcutta.  
 Bank of Communications, Calcutta.  
 National Savings Bank, Ltd., Bombay.  
 United Commercial Bank, Ltd., Calcutta.  
 Hind Bank, Ltd., Calcutta.  
 Traders Bank, Ltd., Lahore.  
 New Bank of India, Ltd., Lahore.  
 Exchange Bank of India and Africa, Ltd., Bombay.  
 Universal Bank of India, Ltd., Dalmiagar.  
 Bank of Jaipur, Jaipur.  
 National Bank of Lahore, Lahore.  
 Narang Bank of India, Lahore.  
 Hindustan Commercial Bank, Cawnpore.  
 Oriental Bank of Commerce, Lahore.  
 Bank of Mysore, Bangalore.  
 Discount Bank of India, Bombay.  
 Andhra Bank, Masulipatam.  
 Hooghly Bank, Calcutta.

<sup>1</sup> These banks were included in the Schedule by notifications issued from time to time under s. 42 (6) of the Act. The banks excluded by such notifications and by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para, 1 and Sch. III, have been omitted from the Schedule.

*(The Second and Third Schedules)*

Bank of Nagpur, Ltd., Wardha.  
Hindustan Mercantile Bank, Calcutta.  
Gadodia Bank, Bombay.  
Prabhat Bank, Lahore.  
Pratap Bank, New Delhi.  
Indo-Mercantile Bank, Cochin.  
Bareilly Corporation Bank, Bareilly.  
Bank of Maharashtra, Poona.  
Tripura Modern Bank, Agartala.  
Kumbakonam Bank, Ltd., Kumbakonam.  
United Sind-Punjab Bank, Ltd., Karachi.  
Bank of Bikaner, Ltd., Bikaner.  
Jodhpur Commercial Bank, Ltd., Jodhpur.  
South India Bank, Ltd., Tinnevely.  
Bank of Assam, Ltd., Shillong.  
Tanjore Permanent Fund, Ltd., Tanjore.  
Southern Bank, Ltd., Calcutta.  
Travancore Bank, Ltd., Trivandrum Taluk.  
Australasia Bank, Ltd., Lahore.  
New Standard Bank, Comilla.  
South Indian Bank, Ltd., Trichur.  
Lakshmi Commercial Bank, Ltd., Rawalpindi.  
Bharatha Lakshmi Bank, Ltd., Masulipatam.  
Bankers Union, Ltd., Calcutta.  
Presidency Industrial Bank, Ltd., Poona City.  
United Sind-Punjab Bank, Ltd.  
The Travancore Forward Bank, Ltd., Kottayam.  
The Hyderabad State Bank, Hyderabad (Deccan).  
The Bank of Poona Limited, Poona.  
The Vysya Bank Limited, Bangalore City.  
The Mercantile Bank of Hyderabad, Ltd.  
Hyderabad (Deccan).]

---

THE THIRD SCHEDULE

(See section 45.)

Provisions to be contained in the agreement between the Reserve Bank of India and the Imperial Bank of India.

1. The Imperial Bank of India shall be the sole agent of the Reserve Bank of India at all places in <sup>1</sup>[the Provinces] where there is a branch of the Imperial Bank of India which was in existence at the commencement of the Reserve Bank of India Act, 1934, and there is no branch of the Banking Department of the Reserve Bank of India.

2. In consideration of the performance at the places referred to in clause 1 by the Imperial Bank of India on behalf of the Reserve Bank of India of the functions which the Imperial Bank of India was performing on behalf of the <sup>2</sup>[Central Government] before the coming into force

<sup>1</sup> Subs. by the A.O. 1948, for "British India".

<sup>2</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III para. 1 and Sch. III, for "G. G. in C."

*(The Third and Fourth Schedules)*

of the Reserve Bank of India Act, 1934, the Reserve Bank of India shall pay to the Imperial Bank of India as remuneration a sum which shall be for the first ten years during which this agreement is in force a commission calculated<sup>1</sup> at one-sixteenth of one per cent. on the first 250 crores and one thirty-second of one per cent. on the remainder of the total of the receipts and disbursements dealt with annually on account of Government by the Imperial Bank of India on behalf of the Reserve Bank of India. At the close of the said ten years the remuneration to be paid by the Reserve Bank of India to the Imperial Bank of India for the performance of these functions shall be revised and the remuneration for the ensuing five years shall be determined on the basis of the actual cost to the Imperial Bank of India, as ascertained by expert accounting investigation, of performing the said functions. The remuneration so determined shall thereafter be subject to revision in like manner at the end of each period of five years so long as this agreement remains in force. If any dispute arises between the Reserve Bank of India and the Imperial Bank of India as to the amount of the said remuneration the matter shall be referred for final decision to the [Central Government] who may require from the Imperial Bank such information and may order such accounting investigation<sup>2</sup> [as it thinks fit].

3. In consideration of the maintenance by the Imperial Bank of India of branches not less in number than those existing at the commencement of the Reserve Bank of India Act, 1934, the Reserve Bank of India shall, until the expiry of fifteen years from the coming into force of this agreement, make to the Imperial Bank of India the following payments, namely:—

- (a) during the first five years of this agreement—nine lakhs of rupees per annum;
- (b) during the next five years of the agreement—six lakhs of rupees per annum; and
- (c) during the next five years of the agreement—four lakhs of rupees per annum.

4. The Imperial Bank of India shall not without the approval of the Reserve Bank of India open any branch in substitution for a branch existing at the time this agreement comes into force.

### THE FOURTH SCHEDULE

(See section 47.)

Scale of additional dividend payable to shareholders

A. If the maximum rate of dividend fixed under section 47 is five per centum and so long as the share capital of the Bank is five crores of rupees—

- (1) if the surplus does not exceed four crores of rupees—Nil.

<sup>1</sup> Subs. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III, for "G. G. in C."

<sup>2</sup> Subs. for "as he thinks fit", *ibid*.



## Khaddar (Name Protection).

[1934 : Act VIII.]

(2) if the surplus exceeds four crores of rupees—

(a) out of such excess up to the first one and a half crores of rupees—a fraction equal to one-sixtieth;

(b) out of each successive additional excess up to one and a half crores of rupees—one-half of the fraction payable, out of the next previous one and a half crores of excess:

Provided that the additional dividend shall be a multiple of one-eighth of one per cent. on the share capital, the amount of the surplus allocated thereto being rounded up or down to the nearest one-eighth of one per cent. on the share capital.

B. If the maximum rate of dividend fixed under section 47 is below five per centum, the said fraction of one-sixtieth shall be increased in the ratio of the difference between six and the fixed rate to unity.

C. When the original share capital of the Bank has been increased or reduced, the said fraction of one-sixtieth shall be increased or diminished in proportion to the increase or reduction of the share capital.

THE FIFTH SCHEDULE.—*Rep. by the India and Burma (Burma Monetary Arrangements) Order, 1937, Pt. III, para. 1 and Sch. III.*

## THE KHADDAR (NAME PROTECTION) ACT, 1934.

'Act No. VIII of 1934.

[13th March, 1934].

An Act to regulate the use of the words "Khaddar" and "Khadi" when applied as a trade description of woven materials.

**W**HEREAS it is expedient to regulate the use of the words "Khaddar" and "Khadi" when applied as a trade description of woven materials; It is hereby enacted as follows:—

1. (1) This Act may be called the Khaddar (Name Protection) Act, 1934.

(2) It extends to <sup>2</sup>[all the Provinces of India], including <sup>3</sup>\* \* \* the Sonthal Parganas.

Short title,  
extent and  
commence-  
ment.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1932, Pt. V, p. 66 and for Report of Select Committee, see Gazette of India, 1933, Pt. V, pp. 255-256.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Subs. by the A.O. 1948 for "the whole of British India".

<sup>3</sup> The words "British Baluchistan and" rep. by the A.O. 1948.

(3) This section shall come into force at once, and section 2 shall come into force<sup>1</sup> in any Province on such date as the [Central Government] may, by notification in the [Official Gazette], appoint in this behalf.

2. The words "Khaddar" and "Khadi", whether in English or in any Indian vernacular language, when applied to any woven material shall be deemed to be a trade description within the meaning of the Indian Merchandise Marks Act, 1889, indicating that such material is cloth woven on handlooms in India from cotton yarn hand-spun in India.

Words  
"Khaddar"  
and  
"Khadi"  
to be trade  
description.

IV of 1889.

## THE INDIAN FINANCE ACT, 1934.

[Act No. IX of 1934.]

[29th March, 1934.]

An Act <sup>\* \* \*</sup> to fix rates of income-tax and super-tax <sup>\* \* \*</sup>.

WHEREAS it is expedient <sup>\* \* \*</sup> to fix rates of income-tax and super-tax <sup>\* \* \*</sup>; It is hereby enacted as follows :—

1 (1) This Act may be called the Indian Finance Act, 1934.

(2) It extends to <sup>6</sup>[all the Provinces of India], including <sup>7</sup>\* \* \* the Northern Parganas.

Short title  
and extent.

2. [Exemption of salt duty.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.

3 [Amendments of Schedule II and Schedule III to Act VIII of 1891] Rep. by the Indian Tariff Act, 1934 (XXXI of 1934), s. 13 and Sch. III.

<sup>1</sup> S. 2 came into force in—

the Province of Coorg on 1st June 1934, see Coorg Gazette, 1934, Pt. I, p. 74.

the Central Provinces on 1st July 1934, see C.P. Gazette, 1934, Pt. I, p. 498.

Benar on 1st August, 1934, see *ibid.*, p. 518.

the Province of Punjab (now East Punjab) on 6th August, 1934, see Punjab Gazette, 1934, Pt. I, p. 794.

the Province of Assam on 1st January 1935, see Assam Gazette, 1931, Pt. II, p. 1001.

the Province of Madras on 17th August 1937, see Madras Gazette, 1937, Pt. I, p. 1453.

the Province of Bihar on 1st March 1938, see Bihar Gazette, 1938, Pt. II, p. 193.

the United Provinces on 15th March 1938, see U.P. Gazette, 1938, Pt. I, p. 295.

the Province of Bombay on 25th March 1938, see Bombay Gazette, 1938, Pt. IV-A, p. 390.

<sup>2</sup> Subs. by A.O. 1937 for "L. G.".

<sup>3</sup> Subs. by the A.O. 1937 for "local official Gazette".

<sup>4</sup> For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 90.

<sup>5</sup> Certain words rep. by the Indian Tariff Act, 1934 (32 of 1934), s. 13 and Sch. III. and by the Repealing and Amending Act, 1937 (20 of 1937), s. 3 and Sch. II.

<sup>6</sup> Subs. by the A.O. 1948 for "the whole of British India".

<sup>7</sup> The words "British Baluchistan and" rep. by the A.O. 1948.

4. [Inland postage rates.] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

**Income-tax  
and super-  
tax.**

5. (1) Income-tax for the year beginning on the 1st day of April, 1934, shall be charged at the rates specified in Part I of the Second Schedule increased in each case, except in the case of total incomes of less than two thousand rupees, by one-fourth of the amount of the rate.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1934, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule increased in each case by one-fourth of the amount of the rate. **XI of 1922.**

(3) For the purposes of the Second Schedule "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922. **XI of 1922.**

(4) For the purpose of assessing and collecting income-tax on total incomes of less than two thousand rupees the Indian Income-tax Act, 1922, shall be deemed to be subject to the adaptations set out in Part III of the Second Schedule. **XI of 1922.**

6. & 7. [Amendment of section 19 Act X of 1923, Excise duty on silver.] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.*

**SCHEDULE I.—Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.**

#### SCHEDULE II.

[See section 5.]

##### PART I.

##### *Rates of Income tax.*

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company:—

	Rate.
(1) When the total income is Rs. 1,000 or upwards, but is less than Rs. 1,500	Two pies in the rupee.
(2) When the total income is Rs. 1,500 or upwards, but is less than Rs. 2,000	Four pies in the rupee
(3) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000	Six pies in the rupee
(4) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000	Nine pies in the rupee.
(5) When the total income is Rs. 10,000 or upwards, but is less than Rs. 15,000	One anna in the rupee.
(6) When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000	One anna and four pies in the rupee.
(7) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000	One anna and seven pies in the rupee.
(8) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000	One anna and eleven pies in the rupee.
(9) When the total income is Rs. 40,000 or upwards, but is less than Rs. 1,00,000	Two annas and one pie in the rupee.
(10) When the total income is Rs. 1,00,000 or upwards,	Two annas and two pies in the rupee.

B. In the case of every company and registered firm, whatever its total income

Two annas and two pies in the rupee.

## PART II

## Rates of Super tax

In respect of the excess over thirty thousand rupees of total income

	Rate.
(1) in the case of every company—	
(a) in respect of the first twenty thousand rupees of such excess	Nil.
(b) for every rupee of the remainder of such excess	One anna in the rupee
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first forty five thousand rupees of such excess	Nil.
(ii) for every rupee of the next twenty five thousand rupees of such excess	One anna and three pies in the rupee
(b) in the case of every individual unincorporated firm and other association of individuals not being a registered firm or a company	
(i) for every rupee of the first twenty thousand rupees of such excess	Nine pies in the rupee
(ii) for every rupee of the next fifty thousand rupees of such excess	One anna and three pies in the rupee
(c) in the case of every individual Hindu undivided family, unincorporated firm and other association of individuals not being a registered firm or a company	
(i) for every rupee of the next fifty thousand rupees of such excess	One anna and nine pies in the rupee
(ii) for every rupee of the next fifty thousand rupees of such excess	Two annas and three pies in the rupee
(iii) for every rupee of the next fifty thousand rupees of such excess	Two annas and nine pies in the rupee
(iv) for every rupee of the next fifty thousand rupees of such excess	Three annas and three pies in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess	Three annas and nine pies in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess	Four annas and three pies in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess	Four annas and nine pies in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess	Five annas and three pies in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess	Five annas and nine pies in the rupee.
(x) for every rupee of the remainder of such excess	Six annas and three pies in the rupee.

## PART III.

*Adaptations of the Indian Income-tax Act, 1922, to provide for the summary assessments of income-tax on total incomes of less than Rs. 2,000.*

1. The Income-tax Officer may, save where he has served a notice under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, make a summary assessment of the income of an assessee to the best of his judgment, and shall serve on the assessee a notice of demand in a form to be prescribed by the Central Board of Revenue, and such notice shall be deemed to be a notice of demand under section 29 of that Act.

2. Any assessee in respect of whom such summary assessment has been made, may, within thirty days of receipt of the notice of demand, make an application to the Income-tax Officer for the cancellation or revision of the assessment, and the Income-tax Officer shall, after examining any accounts and documents and hearing any evidence which the assessee may produce, and such other evidence as the Income-tax Officer may require, determine, by order in writing, the amount of the tax, if any, payable by the assessee, and such determination shall be final:

Provided that, if any assessee making such application files therewith a return of his income under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, the application shall be deemed to be a return under that sub-section and shall be dealt with accordingly.

3. A copy of an order under paragraph 2 shall be served on the assessee to whom it relates and shall be deemed to be a notice of demand under section 29 of the Indian Income-tax Act 1922.

4. The above procedure shall apply also to the assessment and collection during the financial year 1934-35 of incomes of Rs. 1,000 and upward and less than Rs. 2,000 which have escaped assessment in the financial year 1933-34.

## THE INDIAN STATES (PROTECTION) ACT, 1934.

<sup>1</sup>Act No. XI of 1934.

[20th April, 1934.]

**An Act to protect the Administrations of <sup>2</sup>[states which have acceded to the Dominion of India] from activities which tend to subvert, or to excite disaffection towards, or to obstruct such Administrations.**

**W**HEREAS it is expedient to protect the Administrations of <sup>2</sup>[States which have acceded to the Dominion of India] from activities which tend to subvert, or to excite disaffection towards, or to obstruct such Administrations; It is hereby enacted as follows:—

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 112 and for Report of Select Committee, see Gazette of India, 1934, Pt. V, p. 36.

<sup>2</sup> Subs. by the A.O. 1948 for "States in India which are under the suzerainty of His Majesty".

1. (1) This Act may be called the Indian States (Protection) Act, 1934.

Short title,  
extent and  
commence-  
ment.

(2) It extends<sup>1</sup> to <sup>2</sup>[all the Provinces of India], including <sup>3\*</sup> the Sonthal Parganas.

(3) This section and sections 2 and 3 shall come into force at once the remaining sections of this Act shall come into force in any district or area only when and for such time as the <sup>4</sup>[Provincial Government], by notification in the <sup>5</sup>[Official Gazette], directs.

2. Whoever, within or without <sup>6</sup>[the Provinces], conspires to overawe, by means of criminal force or the show of criminal force, the Administration of any <sup>7</sup>[Acceding State], shall be punished with imprisonment which may extend to seven years, to which fine may be added.

Conspiracy  
to overawe  
administra-  
tion of an  
Acceding  
State.

3. The Indian Press (Emergency Powers) Act, 1931, as amended by the Criminal Law Amendment Act, 1932, shall be interpreted—

Application  
of Act  
XXIII of  
1931.

(a) as if in sub-section (1) of section 4 of the Act, after clause (i) the following word and clause were inserted, namely:—

“or

(j) to bring into hatred or contempt or to excite disaffection towards the Administration established in any <sup>7</sup>[Acceding State]”;

(b) as if in Explanation 2 and Explanation 3 to the said sub-section, after the word “Government” the words “or Administration”, and after the letter and brackets “(d)” the words, letter and brackets “or clause (j)” were inserted; and

(c) as if after Explanation 4 to the said sub-section the following Explanation were inserted, namely:—

“Explanation 5.—Statements of fact made without malicious intention and without attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (j) of this sub-section.”

XXXX... 8\* f--- \* \* \* \* \*

4. (1) When a District Magistrate or in a Presidency-town the Chief Presidency Magistrate is of opinion that within his jurisdiction attempts are being made to promote assemblies of persons for the purpose of proceeding from <sup>6</sup>[the Provinces] into the territory of <sup>9</sup>[an Acceding State] and that the entry of such persons into the said territory or their presence

Power to  
prohibit  
assemblies.

<sup>1</sup> This Act has been declared to be in force in the Khondmals District by the Khondmals Laws Regulation, 1936 (1 of 1936), s. 3 and Sch.; and in the Angul District by the Angul Laws Regulation, 1936 (5 of 1936) s. 3 and Sch. It has also been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Subs. by the A.O. 1948 for “the whole of British India”.

<sup>3</sup> The words “British Baluchistan and” rep. by the A.O. 1948.

<sup>4</sup> Subs. by the A.O. 1937 for “L.G.”.

<sup>5</sup> Subs. by the A.O. 1937 for “Local Official Gazette”.

<sup>6</sup> Subs. by the A.O. 1948 for “British India”.

<sup>7</sup> Subs. by the A.O. 1948 for “State in India”.

<sup>8</sup> The second half of the section was rep. by the A.O. 1937.

<sup>9</sup> Subs. by the A.O. 1948 for “a State in India”.

therein is likely or will tend to cause obstruction to the Administration of the said State or danger to human life or safety or a disturbance of the public tranquillity or a riot or an affray within the said territory, he may, by order in writing stating the material facts of the case, prohibit within the area specified in the order the assembly of five or more persons in furtherance of the said purpose.

(2) When an order under sub-section (1) has been made, and for so long as it remains in force, any assembly of five or more persons held in contravention of the order shall be an unlawful assembly within the meaning of section 141 of the Indian Penal Code, and the provisions of **XIV of 1860**, Chapter VIII of the Indian Penal Code and of Chapter IX of the Code of **1860**, Criminal Procedure, 1898, shall apply accordingly. **V of 1898.**

(3) An order under sub-section (1) shall be notified by proclamation published in the specified area in such places and in such manner as the Magistrate may think fit, and a copy of such order shall be forwarded to the <sup>1</sup>[Provincial Government].

(4) No order under sub-section (1) shall remain in force for more than two months from the making thereof, unless the <sup>1</sup>[Provincial Government], by notification in the <sup>2</sup>[Official Gazette], otherwise directs.

**Power to  
issue direc-  
tions prohi-  
biting cer-  
tain acts.**

5. (1) Where, in the opinion of a District Magistrate or in a Presidency-town the Chief Presidency Magistrate, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by written order stating the material facts of the case and served in the manner provided by section 134 of the Code of Criminal Procedure, 1898, direct any person to abstain **V of 1898.** from a certain act if such Magistrate considers that such direction is likely to prevent or tends to prevent obstruction to the Administration of <sup>3</sup>[an Acceding State] or danger to human life or safety or a disturbance of the public tranquillity or a riot or an affray within the said State.

(2) An order under sub-section (1) may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex-parte*.

(3) An order under sub-section (1) may be directed to a particular individual, or to the public generally.

(4) A District Magistrate or Presidency Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under sub-section (1) by himself or by his predecessor in office.

(5) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and showing cause against the order; and if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing.

<sup>1</sup> Subs. by the A.O. 1937 for "L.G.".

<sup>2</sup> Subs. by the A.O. 1937 for "Local Official Gazette".

<sup>3</sup> Subs. by the A.O. 1918 for "a State in India".

(6) No order under sub-section (1) shall remain in force for more than two months from the making thereof unless the <sup>1</sup>[Provincial Government], by notification in the <sup>2</sup>[Official Gazette], otherwise directs.

6. (1) Whoever wilfully disobeys or neglects to comply with any direction contained in an order made under sub-section (1) of section 5, or in such order as altered under sub-section (1) of that section, shall be punishable with imprisonment which may extend to six months, or with fine, or with both. **Penalty for disobeying order under section 5.**

(2) An offence under this section shall be an offence for which a police officer may arrest without warrant.

7. No Court shall take cognizance of any offence punishable under section 2 unless upon complaint made by order of, or under authority from <sup>3</sup>[the Central Government, if the offence is committed outside <sup>4</sup>[the Provinces], and the Provincial Government in other cases]. **Cognizance of offences under section 2 by Courts.**

## THE SUGAR-CANE ACT, 1934.

'Act No. XV of 1934.

[1st May, 1934]

An Act to regulate the price of sugar-cane intended for use in sugar factories.

**W**HEREAS it is expedient, for the purpose of assuring to sugar-cane growers a fair price for their produce, to regulate the price at which sugar cane intended to be used in the manufacture of sugar may be purchased by or for factories; It is hereby enacted as follows:—

1. (1) This Act may be called the Sugar cane Act, 1934.

**Short title  
extent and  
commence-  
ment.**

(2) It extends to <sup>5</sup>[all the Provinces of India], including <sup>7</sup> \* the Senthal Parganas.

(3) This section shall come into force at once, the remaining sections of this Act shall come into force in any Province on such date as the <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], appoint in that behalf.

<sup>1</sup> Subs. by the A.O. 1937 for "L.G.".

<sup>2</sup> Subs. by the A.O. 1937 for "local official Gazette".

<sup>3</sup> Subs. by the A.O. 1937 for "the G. G. in C. or the L.G.".

<sup>4</sup> Subs. by the A.O. 1948 for "British India".

<sup>5</sup> For Statement of Objects and Reasons, see Gazette of India, 1934, Pt. V, p. 72. This Act has been rep. in Bihar by Bihar Act 7 of 1937 and in U.P. by U.P. Act 1 of 1938 and amended in Punjab (now East Punjab) by Punjab Act 9 of 1943.

<sup>6</sup> Subs. by the A.O. 1948 for "the whole of British India".

<sup>7</sup> The words "British Baluchistan and" rep. by the A.O. 1948.



**Definitions.**

2 In this Act, unless there is anything repugnant in the subject or context,—

- (1) "controlled area" means any area specified in a notification issued under sub-section (1) of section 3<sup>1</sup> ;
- (2) "factory" means any premises (including the premises thereof) wherein twenty or more workers are working or were working on any day of the preceding twelve months and in any part of which any manufacturing process connected with the production of sugar is being carried on or is ordinarily carried on with the aid of power; and<sup>2</sup>
- (3) "sugar" means any form of sugar containing more than ninety per cent. of sucrose<sup>3</sup> .

**Declaration  
of controlled  
areas, and  
fixing of  
prices.**

3 (1) The [Provincial Government] may by notification in the [Official Gazette] declare any area specified in the notification to be a controlled area for the purposes of this Act.

(2) <sup>4</sup> \* \* \* The [Provincial Government] may by notification in the [Official Gazette], fix a minimum price or minimum prices for the purchase in any controlled area of sugar cane intended for use in any factory.

(3) The [Provincial Government] may by notification in the [Official Gazette], prohibit in any controlled area the purchase of sugar cane intended for use in any factory otherwise than from the grower of the sugar cane or from a person licensed by the [Provincial Government] to act as a purchasing agent<sup>5</sup>.

**Previous  
publication  
of notifica-  
tions under  
section 3.**

4 Not less than thirty days before the issue of any notification under sub-section (1) or sub-section (2) of section 3 the [Provincial Government] shall publish in the [Official Gazette] and in such other manner (if any) as it thinks fit a draft of the proposed notification specifying a date on or after which the draft will be taken into consideration and shall consider any objection or suggestion which may be received from any person with respect to the draft before the date so specified.

**Penalty for  
purchase of  
sugar-cane  
in contra-  
vention of  
notification  
under  
section 3.**

5. Whoever in any controlled area purchases any sugar cane intended for use in a factory at a price less than the minimum price fixed therefor by notification under sub-section (2) of section 3 or in contravention of any prohibition made under sub-section (3) of section 3 shall be punishable with fine which may extend to two thousand rupees.

**Sanction for  
prosecution  
under this  
Act.**

6 No Court shall take cognizance of any offence punishable under section 5 except upon complaint made by order of, or under authority from, the District Magistrate.

<sup>1</sup> For Clauses (1 a) to (1 c), (2 a) to (2 c) and sections 2 A to 2 C as applied to Punjab, see Punjab Act 9 of 1943.

<sup>2</sup> Subs. by the A.O. 1937 for "L. G."

<sup>3</sup> Subs. by the A.O. 1937 for "local official Gazette".

<sup>4</sup> The words "Subject to the control of the G. G. in C." rep. by the A.O. 1937.

<sup>5</sup> For Ss 3 A to 3 F and clauses (g) to (h) of sub-section (4) of s. 7 as applied to Punjab (now East Punjab) see Punjab Act 9 of 1943.

7. (1) The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], make rules for the purpose of carrying into effect the objects of this Act. **Power of Provincial Government to make rules.**

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the carrying out of inquiries preliminary to the exercise of the powers conferred by section 3;
- (b) establishing Advisory Committees for any purpose connected with the administration of this Act and defining the powers, functions and procedure of such Committees;
- (c) the issue of licences to purchasing agents, the fees for such licences, and the regulation of the purchase and sale of sugar-cane by and to such agents;
- (d) the organisation of growers of sugar cane into societies for the sale of sugar-cane to factories;
- (e) the authorities by which any functions under this Act or the rules made thereunder are to be performed; and
- (f) the records, registers and accounts to be maintained for ensuring compliance with the provisions of this Act<sup>3</sup>.

(3) In making any rule under sub-section (1) or <sup>4</sup>[under clause (c) or clause (f) of] sub-section (2), the <sup>5</sup>[Provincial Government] may provide that a breach of the rule shall, where no other penalty is provided by this Act, be punishable with fine not exceeding two thousand rupees.

8. The <sup>6</sup>[Provincial Government] after previous publication may, by notification in the <sup>7</sup>[Official Gazette], make rules providing for the exemption of factories or any class of factories from the provisions of this Act. **Power of Provincial Government to make rules.**

## THE INDIAN DOCK LABOURERS ACT, 1934.

<sup>8</sup>Act No. XIX of 1934.

[19th August, 1934.]

An Act to give effect in <sup>9</sup>[the Provinces of India] to the Convention concerning the protection against accidents of workers employed in loading and unloading ships.

**W**HEREAS a Revised Draft Convention concerning the protection against accidents of workers employed in loading or unloading ships was adopted at Geneva on the twenty-seventh day of April, nineteen hundred and thirty-two;

<sup>1</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>2</sup> Subs. by the A.O. 1937 for "local official Gazette".

<sup>3</sup> For Ss. 3-A to 3-F and clauses (a) to (h) of sub-section (2) of s. 7 as applied to Punjab (now East Punjab) see Punjab Act 9 of 1943.

<sup>4</sup> These words were rep. in Punjab by Punjab Act 9 of 1943.

<sup>5</sup> Subs. by the A.O. 1937 for "G. G. in C.".

<sup>6</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>7</sup> For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 195 and for Report of Select Committee, see Gazette of India, 1934, Pt. V, p. 175.

<sup>8</sup> Subs. by the A.O. 1948 for "British India".

And whereas it is expedient to give effect in [the Provinces of India] to the said Convention;

It is hereby enacted as follows:

Short title,  
extent, com-  
mencement  
and applica-  
tion.

1 (1) This Act may be called the Indian Dock Labourers Act, 1934

(2) It extends to [all the Provinces of India].

(3) It shall come into force on such [date as the [Central Govern-  
ment] may, by notification in the [Official Gazette], appoint.

(4) It shall not apply to any ship of war of any nationality

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “the processes” includes all work which is required for or is in-  
cidental to the loading or unloading of cargo or fuel into or  
from a ship and is done on board the ship or alongside it, and

(b) “worker” means any person employed in the processes.

Inspectors.

3. (1) The [Central Government] may, by notification in the [Official  
Gazette], appoint such persons as it thinks fit to be Inspectors for the  
purposes of this Act within such local limits as it may assign to them  
respectively.

(2) All Principal Officers of the Mercantile Marine Department shall  
be Inspectors under this Act, *ex officio*, within the limits of their charges.

(3) Every Inspector shall be deemed to be a public servant within the  
meaning of the Indian Penal Code, and shall be officially subordinate to  
such authority as the [Central Government] may direct. XLV  
1860.

Powers of  
Inspectors.

4. Subject to any rules made in this behalf under section 6, an Ins-  
pector may, within the local limits for which he is appointed,—

(a) enter, with such assistants (if any) as he thinks fit, any premises  
or ship where the processes are carried on;

(b) make such examination of the premises or ship and the mach-  
inery and gear, fixed or loose, used for the processes, and of  
any prescribed registers and notices, and take on the spot or  
otherwise such evidence of any person as he may deem neces-  
sary for carrying out the purposes of this Act; and

(c) exercise any other powers which may be conferred upon him by  
the regulations made under section 5.

<sup>1</sup> Subs. by the A.O. 1948 for “British India”.

<sup>2</sup> Subs. by the A.O. 1948 for “the whole of British India”.

<sup>3</sup> 10th February 1948, *see* Gazette of India, 1948, Pt. I, p. 88

<sup>4</sup> Subs. by the A.O. 1937 for “G. G. in C.”.

<sup>5</sup> Subs. by the A.O. 1937 for “Gazette of India”.

<sup>6</sup> Subs. by the A.O. 1937 for “L.G.”.

<sup>7</sup> Subs. by the A.O. 1937 for “local official Gazette”.

5. (1) The [Central Government] may make regulations—

Power to  
Central  
Government  
to make re-  
gulations.

- (a) providing for the safety of working places on shore and of any regular approaches over a dock, wharf, quay or similar premises which workers have to use for going to or from a work ing place at which the processes are carried on, and for the lighting and fencing of such places and approaches,
- (b) prescribing the nature of the means of access which shall be provided for the use of workers proceeding to or from a ship which is lying alongside a quay, hulk or other vessel;
- (c) prescribing the measures to be taken to ensure the safe transport of workers proceeding to or from a ship by water and the conditions to be complied with by the vessels used for the purpose
- (d) prescribing the nature of the means of access to be provided for the use of the workers from the deck of a ship to a hold in which the processes are carried on;
- (e) prescribing the measures to be taken to protect hatchways accessible to the workers and other openings in a deck which might be dangerous to them,
- (f) providing for the efficient lighting of the means of access to ships on which the processes are carried on and of all places on board at which the workers are employed or to which they may be required to proceed;
- (g) providing for the safety of the workers engaged in removing or replacing hatch coverings and beams used for hatch coverings;
- (h) prescribing the measures to be taken to ensure that no hoisting machine or gear, whether fixed or loose, used in connection therewith, is employed in the processes on shore or on board ship unless it is in a safe working condition;
- (i) providing for the fencing of machinery, live electric conductors and steam pipes;
- (j) regulating the provision of safety appliances on derricks, cranes and winches;
- (k) prescribing the precautions to be observed in regard to exhaust and live steam;
- (l) requiring the employment of competent and reliable persons to operate lifting or transporting machinery used in the processes, or to give signals to a driver of such machinery, or to attend to cargo falls on winch ends or winch drums, and providing for the employment of a signaller where this is necessary for the safety of the workers;
- (m) prescribing the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo, or handling in connection therewith;
- (n) prescribing the precautions to be taken to facilitate the escape of the workers when employed in a hold or between decks in dealing with coal or other bulk cargo;

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C.".

- (o) prescribing the precautions to be observed in the use of stages and trucks;
- (p) prescribing the precautions to be observed when the workers have to work where dangerous or noxious goods are, or have been, stowed or have to deal with or work in proximity to such goods;
- (q) providing for the rendering of first-aid to injured workers and removal to the nearest place of treatment;
- (r) prescribing the provision to be made for the rescue of immersed workers from drowning;
- (s) prescribing the abstracts of this Act and of the regulations required by section 8;
- (t) providing for the submission of notices of accidents and dangerous occurrences and prescribing the forms of such notices, the persons and authorities to whom they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted;
- (u) specifying the persons and authorities who shall be responsible for compliance with regulations made under this Act;
- (v) defining the circumstances in which and conditions subject to which exemptions from any of the regulations made under this section may be given, specifying the authorities who may grant such exemptions and regulating their procedure;
- (w) defining the additional powers which Inspectors may exercise under clause (c) of section 4; and
- (x) providing generally for the safety of workers.

(2) Regulations made under this section may make special provision to meet the special requirements of any particular port or ports.

(3) In making a regulation under this section, the <sup>1</sup>[Central Government] may direct that a breach of it shall be punishable with fine which may extend to five hundred rupees, and when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

**Power to  
Central  
Government  
to make  
rules.**

6. 2\* \* \* The <sup>3</sup>[Central Government] may make rules regulating

- (a) the inspection of premises or ships where the processes are carried on; and
- (b) the manner in which Inspectors are to exercise the powers conferred on them by this Act.

**General  
provisions  
relating to  
regulations  
and rules.**

7. (1) The power to make regulations and rules conferred by sections 5 and 6 is subject to the condition of the regulations and rules being made after previous publication.

(2) Regulations and rules shall be published in <sup>4</sup>[the Official Gazette].

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C.".

<sup>2</sup> The words "subject to the control of the G. G. in C." rep. by the A.O. 1937.

<sup>3</sup> Subs. by the A.O. 1937 for "L.G.".

<sup>4</sup> Subs. by the A.O. 1937 for "the Gazette of India and the local official Gazette, respectively".

8. There shall be affixed in some conspicuous place near the main entrance of every dock, wharf, quay or similar premises where the processes are carried on, in English and in the language of the majority of the work-ers, the abstracts of this Act and of the regulations made thereunder which may be prescribed by the regulations.

**Abstracts of Act and regulations to be conspicuously posted.**

9. Any person who -

**Penalties.**

- (a) wilfully obstructs an Inspector in the exercise of any power under section 4, or fails to produce on demand by an Inspector any registers or other documents kept in pursuance of the regulations made under this Act, or any gear, fixed or loose, used for the processes, or conceals or prevents or attempts to prevent any person from appearing before, or being examined by, an Inspector, or
- (b) unless duly authorised, or in case of necessity, removes any fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing required to be provided by or under the regulations made under this Act, or
- (c) having in case of necessity removed any such fencing, gangway, gear, ladder, life saving means or appliance, light, mark, stage or other thing, omits to restore it at the end of the period for which its removal was necessary.

shall be punishable with fine which may extend to five hundred rupees.

10. (1) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act or the regulations made thereunder.

**Provisio relating jurisdiction.**

(2) No prosecution for any offence under this Act or the regulations made thereunder shall be instituted except by or with the previous sanction of an Inspector.

(3) No Court shall take cognizance of any offence under this Act or the regulations made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

11. The [Central Government] may, by notification in the [Official Gazette], exempt from all or any of the provisions of this Act and of the regulations made thereunder, on such conditions, if any, as [it] thinks fit, -

**Power to exempt.**

- (a) any port or place, dock, wharf, quay or similar premises at which the processes are only occasionally carried on or the traffic is small and confined to small ships, or
- (b) any specified ship or class of ship,

12. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

**Protection to persons acting under this Act.**

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C."  
<sup>2</sup> Subs. by the A.O. 1937 for "Gazette of India".  
<sup>3</sup> Subs. by the A.O. 1937 for "he".

## THE INDIAN CARRIAGE BY AIR ACT, 1934.

<sup>1</sup>Act No. XX of 1934.

[19th August, 1934.]

An Act to give effect in [the Provinces of India] to a Convention for the unification of certain rules relating to international carriage by air.

**W**HEREAS a Convention for the unification of certain rules relating to international carriage by air (hereinafter referred to as the Convention) was, on the 12th day of October, 1929, signed at Warsaw,

And whereas it is expedient that [the Provinces of India] should accede to the Convention and should make provision for giving effect to the said Convention in [the Provinces of India];

And whereas it is also expedient to make provision for applying the rules contained in the Convention (subject to exceptions, adaptations and modifications) to carriage by air in [the Provinces of India] which is not international carriage within the meaning of the Convention;

It is hereby enacted as follows :

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Indian Carriage by Air Act, 1934.

(2) It extends to [all the Provinces of India] including <sup>2</sup>\* <sup>3</sup>\* the Central Parganas.

(3) It shall come into force on such date<sup>4</sup> as the [Central Government] may, by notification in the [Official Gazette], appoint.

Application  
of the Con-  
vention to  
the Provi-  
nces.

2. (1) The rules contained in the First Schedule, being the provisions of the Convention relating to the rights and liabilities of carriers, passengers, consignors, consignees and other persons, shall, subject to the provisions of this Act, have the force of law in [the Provinces] in relation to any carriage by air to which those rules apply, irrespective of the nationality of the aircraft performing the carriage.

(2) The [Central Government] may, by notification in the [Official Gazette], certify who are the High Contracting Parties to the Convention, in respect of what territories they are parties, and to what extent they have availed themselves of the Additional Protocol to the Convention, and any such notification shall be conclusive evidence of the matters certified therein.

(3) Any reference in the First Schedule to the territory of any High Contracting Party to the Convention shall be construed as a reference to all the territories in respect of which he is a party.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1934, Pt. V, p. 78 and for Report of Select Committee, see *ibid.*, p. 189.

This Act has been extended to Berar by the Berar Laws Act, 1911 (1 of 1911).

<sup>2</sup> Subs. by the A.O. 1948 for "British India".

<sup>3</sup> Subs. by the A.O. 1948 for "the whole of British India".

<sup>4</sup> The words "British Baluchistan and" rep. by the A.O. 1948.

<sup>5</sup> 18th February, 1935, see Gazette of India, 1935, Pt. I, p. 320.

<sup>6</sup> Subs. by the A.O. 1937 for "G. G. in C.".

<sup>7</sup> Subs. by the A.O. 1937 for "Gazette of India".

1[(3A) Any reference in the First Schedule to agents of the carrier shall be construed as including a reference to servants of the carrier.]

XIII of  
1855.

(4) Notwithstanding anything contained in the Indian Fatal Accidents Act, 1855, or any other enactment or rule of law in force in any part of 2[the Provinces], the rules contained in the First Schedule shall, in all cases, to which those rules apply, determine the liability of a carrier in respect of the death of a passenger, and the rules contained in the Second Schedule shall determine the persons by whom and for whose benefit and the manner in which such liability may be enforced.

(5) Any sum in francs mentioned in rule 22 of the First Schedule shall, for the purpose of any action against a carrier, be converted into rupees at the rate of exchange prevailing on the date on which the amount of damages to be paid by the carrier is ascertained by the Court.

V of 1908.

3. (1) Every High Contracting Party to the Convention who has not availed himself of the provisions of the Additional Protocol thereto shall for the purposes of any suit brought in a Court in 3[the Provinces] in accordance with the provisions of rule 28 of the First Schedule to enforce a claim in respect of carriage undertaken by him, be deemed to have submitted to the jurisdiction of that Court and to be a person for the purposes of the Code of Civil Procedure, 1908.

Provisions  
regarding  
suits  
against High  
Contracting  
Parties who  
undertake  
carriage by  
air.

(2) The High Court may make rules of procedure providing for all matters which may be expedient to enable such suits to be instituted and carried on.

(3) Nothing in this section shall authorise any Court to attach or sell any property of a High Contracting Party to the Convention.

4. The 4[Central Government] may, by notification in the 5[Official Gazette], apply the rules contained in the First Schedule and any provision of section 2 to such carriage by air, not being international carriage by air as defined in the First Schedule, as may be specified in the notification, subject however to such exceptions, adaptations and modifications, if any, as may be so specified.

Application  
of Act to  
carriage by  
air which is  
not interna-  
tional.

## FIRST SCHEDULE.

(See section 2.)

### RULES.

#### • CHAPTER I.

#### SCOPE DEFINITIONS.

1. (1) These rules apply to all international carriage of persons, luggage or goods performed by aircraft for reward. They apply also to such carriage when performed gratuitously by an air transport undertaking.

(2) In these rules "High Contracting Party" means a High Contracting Party to the Convention.

<sup>1</sup> Ins. by the Indian Carriage by Air (Amendment) Act, 1939 (31 of 1939), s. 2.

<sup>2</sup> Subs. by the A.O. 1918 for "British India".

<sup>3</sup> Subs. by the A.O. 1937 for "G. G. in C.". .

<sup>4</sup> Subs. by the A.O. 1937 for "Gazette of India".



(3) For the purposes of these rules the expression "international carriage" means any carriage in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting Party, if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to the Convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party is not deemed to be international for the purposes of these rules.

(4) A carriage to be performed by several successive air carriers is deemed, for the purposes of these rules, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

2. (1) These rules apply to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in rule 1.

(2) These rules do not apply to carriage performed under the terms of any international postal Convention.

## CHAPTER II.

### DOCUMENTS OF CARRIAGE.

#### *Part I. Passenger ticket*

3. (1) For the carriage of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:—

- (a) the place and date of issue;
- (b) the place of departure, and of destination;
- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the carriage of its international character;
- (d) the name and address of the carrier or carriers;
- (e) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

(2) The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to these rules. Nevertheless, if the carrier accepts

a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Schedule which exclude or limit his liability.

*Part II.—Luggage ticket.*

4. (1) For the carriage of luggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a luggage ticket.

(2) The luggage ticket shall be made out in duplicate, one part for the passenger and the other part for the carrier.

(3) The luggage ticket shall contain the following particulars:—

- (a) the place and date of issue;
- (b) the place of departure and of destination;
- (c) the name and address of the carrier or carriers;
- (d) the number of the passenger ticket;
- (e) a statement that delivery of the luggage will be made to the bearer of the luggage ticket,
- (f) the number and weight of the packages;
- (g) the amount of the value declared in accordance with rule 22 (2);
- (h) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

(1) The absence, irregularity or loss of the luggage ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to these rules. Nevertheless, if the carrier accepts luggage without a luggage ticket having been delivered, or if the luggage ticket does not contain the particulars set out at (d), (f) and (h) of sub-rule (3), the carrier shall not be entitled to avail himself of those provisions of this Schedule which exclude or limit his liability.

*Part III.—Air consignment note.*

5. (1) Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an "air consignment note"; every consignor has the right to require the carrier to accept this document.

(2) The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of rule 9, be none the less governed by these rules.

6. (1) The air consignment note shall be made out by the consignor in three original parts and be handed over with the goods.

(2) The first part shall be marked "for the carrier", and shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

(3) The carrier shall sign an acceptance of the goods.

(4) The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

(5) If, at the request of the consignor, the carrier makes out the air consignment note, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

7. The carrier of goods has the right to require the consignor to make out separate consignment notes when there is more than one package.

8. The air consignment note shall contain the following particulars:—

- (a) the place and date of its execution;
- (b) the place of departure and of destination;
- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the carriage of its international character;
- (d) the name and address of the consignor;
- (e) the name and address of the first carrier;
- (f) the name and address of the consignee, if the case so requires;
- (g) the nature of the goods;
- (h) the number of the packages, the method of packing and the particular marks or numbers upon them;
- (i) the weight, the quantity and the volume or dimensions of the goods;
- (j) the apparent condition of the goods and of the packing;
- (k) the freight, if it has been agreed upon, the date and place of payment and the person who is to pay it;
- (l) if the goods are sent for payment on delivery, the price of the goods and, if the case so requires, the amount of the expenses incurred;
- (m) the amount of the value declared in accordance with rule 22 (2);
- (n) the number of parts of the air consignment note;
- (o) the documents handed to the carrier to accompany the air consignment note;
- (p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon;
- (q) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

9. If the carrier accepts goods without an air consignment note having been made out, or if the air consignment note does not contain all the particulars set out in rule 8 (a) to (i) inclusive and (g), the carrier shall not be entitled to avail himself of the provisions of this Schedule which exclude or limit his liability.

10. (1) The consignor is responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air consignment note.

(2) The consignor will be liable for all damage suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

11. (1) The air consignment note is *prima facie* evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of carriage.

(2) The statements in the air consignment note relating to the weight dimensions and packing of the goods, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the goods do not constitute evidence against the carrier except so far as they both have been, and are stated in the air consignment note to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

12. (1) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the goods by withdrawing them at the aerodrome of departure or destination, or by stopping them in the course of the journey on any landing, or, by calling for them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air consignment note, or by requiring them to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

(2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

(3) If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air consignment note delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air consignment note.

(4) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with rule 13. Nevertheless, if the consignee declines to accept the consignment note or the goods, or if he cannot be communicated with, the consignor resumes his rights of disposition.

13. (1) Except in the circumstances set out in rule 12, the consignee is entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air consignment note and to deliver the

goods to him, on payment of the charges due and on complying with the conditions of carriage set out in the air consignment note.

(2) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the goods arrive.

(3) If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

14. The consignor and the consignee can respectively enforce all the rights given them by rules 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

15. (1) Rules 12, 13 and 14 do not affect either the relations of the consignor or the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) The provisions of rules 12, 13 and 14 can only be varied by express provision in the air consignment note.

16. (1) The consignor must furnish such information and attach to the air consignment note such documents as are necessary to meet the formalities of customs, octroi or police before the goods can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

---

### CHAPTER III.

#### LIABILITY OF THE CARRIER.

17. The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

18. (1) The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered luggage or any goods, if the occurrence which caused the damage so sustained took place during the carriage by air.

(2) The carriage by air within the meaning of the preceding paragraph comprises the period during which the luggage or goods are in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

(3) The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

19. The carrier is liable for damage occasioned by delay in the carriage by air of passengers, luggage or goods.

20. (1) The carrier is not liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

(2) In the carriage of goods and luggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

21. If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person, the Court may exonerate the carrier wholly or partly from his liability.

22. (1) In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 125,000 francs. Where damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract the carrier and the passenger may agree to a higher limit of liability.

(2) In the carriage of registered luggage and of goods, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

(4) The sums mentioned in this rule shall be deemed to refer to the French franc consisting of 65½ milligrams gold of millesimal fineness 900.

23. Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in these rules shall be null and void, but nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Schedule.

24. (1) In the cases covered by rules 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Schedule.

(2) In the cases covered by rule 17 the provisions of sub-rule (1) also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

25. (1) The carrier shall not be entitled to avail himself of the provisions of this Schedule which exclude or limit his liability if the damage is caused by his wilful misconduct or by such default on his part as is in the opinion of the Court equivalent to wilful misconduct.

(2) Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment.

26. (1) Receipt by the person entitled to delivery of luggage or goods without complaint is *prima facie* evidence that the same have been delivered in good condition and in accordance with the document of carriage.

(2) In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within three days from the date of receipt in the case of luggage and seven days from the date of receipt in the case of goods. In the case of delay the complaint must be made at the latest within fourteen days from the date on which the luggage or goods have been placed at his disposal.

(3) Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid.

(4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

27. In the case of the death of the person liable, an action for damages lies in accordance with these rules against those legally representing his estate.

28. An action for damages must be brought at the option of the plaintiff, either before the Court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the Court having jurisdiction at the place of destination.

29. The right of damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

30. (1) In the case of carriage to be performed by various successive carriers and falling within the definition set out in sub-rule (4) of rule 1, each carrier who accepts passengers, luggage or goods is subjected to the rules set out in this Schedule, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

(2) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) As regards luggage or goods, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

---

## CHAPTER IV.

### PROVISIONS RELATING TO COMBINED CARRIAGE.

31. (1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Schedule apply only to the carriage by air, provided that the carriage by air falls within the terms of rule 1.

(2) Nothing in this Schedule shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Schedule are observed as regards the carriage by air.

---

## CHAPTER V.

### GENERAL AND FINAL PROVISIONS.

32. Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Schedule, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of goods arbitration clauses are allowed, subject to these rules, if the arbitration is to take place in the territory of one of the High Contracting Parties within one of the jurisdictions referred to in rule 28.

33. Nothing contained in this Schedule shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Schedule.

34. This Schedule does not apply to international carriage by air performed by way of experimental trial by air navigation undertakings with the view to the establishment of a regular line of air navigation, nor does it apply to carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

35. The expression "days" when used in these rules means current days, not working days.



36. When a High Contracting Party has declared at the time of ratification of or of accession to the Convention that the first paragraph of Article 2 of the Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority, these rules shall not apply to international carriage by air so performed.

---

## SECOND SCHEDULE.

(See Section 2.)

### PROVISIONS AS TO LIABILITY OF CARRIERS IN THE EVENT OF THE DEATH OF A PASSENGER.

1. The liability shall be enforceable for the benefit of such of the members of the passenger's family as sustained damage by reason of his death.

In this rule the expression "member of a family" means wife or husband, parent, step-parent, grandparent, brother, sister, half-brother, half-sister, child, step-child, grandchild:

Provided that, in deducing any such relationship as aforesaid any illegitimate person and any adopted person shall be treated as being, or as having been, the legitimate child of his mother and reputed father or, as the case may be, of his adopters.

2. An action to enforce the liability may be brought by the personal representative of the passenger or by any person for whose benefit the liability is under the last preceding rule enforceable, but only one action shall be brought in <sup>1</sup>[Provinces] in respect of the death of any one passenger, and every such action by whomsoever brought shall be for the benefit of all such persons so entitled as aforesaid as either are domiciled in <sup>1</sup>[the Provinces] or, not being domiciled there, express a desire to take the benefit of the action.

3. Subject to the provisions of the next succeeding rule the amount recovered in any such action, after deducting any costs not recovered from the defendant, shall be divided between the persons entitled in such proportions as the Court may direct.

4. The Court before which any such action is brought may at any stage of the proceedings make any such order as appears to the Court to be just and equitable in view of the provisions of the First Schedule to this Act limiting the liability of a carrier and of any proceedings which have been, or are likely to be, commenced outside <sup>1</sup>[the Provinces] in respect of the death of the passenger in question.

---

<sup>1</sup> Subs. by the A.O. 1948 for "British India".

## THE INDIAN AIRCRAFT ACT, 1934.

## CONTENTS.

## SECTIONS.

1. Short title and extent.
2. Definitions.
3. Power of Central Government to exempt certain aircraft.
4. Power of Central Government to make rules to implement the Convention of 1919.
5. Power of Central Government to make rules.
6. Power of Central Government to make orders in emergency.
7. Power of Central Government to make rules for investigation of accidents.
8. Power to detain aircraft.
- 8A. Power of Central Government to make rules for protecting the public health.
- 8B. Emergency powers for protecting the public health.
9. Wreck and salvage.
10. Penalty for act in contravention of rule made under this Act.
11. Penalty for flying so as to cause danger.
12. Penalty for abetment of offences and attempted offences.
13. Power of Court to order forfeiture.
14. Rules to be made after publication.
15. Use of patented invention on aircraft not required in India.
16. Power to apply customs procedure.
17. Bar of certain suits.
18. Saving for acts done in good faith under the Act.
19. Saving of application of Act.
20. [*Repealed.*]

ACT NO. XXII of 1934.<sup>1</sup>

[19th August, 1934.]

An Act to make better provision for the control of the manufacture, possession, use, operation, sale, import and export of aircraft.

**W**HEREAS it is expedient to make better provision for the control of the manufacture, possession, use, operation, sale, import and export of aircraft;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1934, Pt. V, p. 82 and for Report of Select Committee, see *ibid.*, p. 195.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

It is hereby enacted as follows:—

**Short title  
and extent.**

1. (1) This Act may be called the Indian Aircraft Act, 1934.

<sup>1</sup>[(2) It extends to the whole of India, and applies also:—

- (a) to British subjects and servants of the Crown in any part of India;
- (b) to British subjects who are domiciled in any part of India wherever they may be; and
- (c) to, and to the persons on, aircraft registered in India wherever they may be.]

**Definitions.**

2. In this Act, unless there is anything repugnant in the subject or context,—

- (1) “aircraft” means any machine which can derive support in the atmosphere from reactions of the air, and includes balloons whether fixed or free, airships, kites, gliders and flying machines;
- (2) “aerodrome” means any definite or limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft, and includes all buildings, sheds, vessels, piers, and other structures thereon or appertaining thereto;
- (3) “import” means bringing into <sup>2</sup>[India]; and
- (4) “export” means taking out of <sup>2</sup>[India].

**Power of  
Central  
Government  
to exempt  
certain  
aircraft.**

3. The <sup>3</sup>[Central Government] may, by notification in the <sup>4</sup>[Official Gazette], exempt from <sup>5</sup>[all or any of the provisions of this Act], any aircraft or class of aircraft and any person or class of persons, or may direct that such provisions shall apply to such aircraft or persons subject to such modifications as may be specified in the notification.

**Power of  
Central  
Government  
to make  
rules to  
implement  
the Conven-  
tion of 1919.**

4. The <sup>3</sup>[Central Government] may, by notification in the <sup>4</sup>[Official Gazette], make such rules as appear to <sup>6</sup>[it] to be necessary for carrying out the Convention relating to the regulation of Aerial Navigation signed at Paris, October 13, 1919, with Additional Protocol, signed at Paris, May 1, 1920, and any amendment which may be made thereto under the provisions of Article 34 thereof.

**Power of  
Central  
Government  
to make  
rules.**

5. (1) The <sup>3</sup>[Central Government] may, by notification in the <sup>4</sup>[Official Gazette], make rules<sup>7</sup> regulating the manufacture, possession, use, operation, sale, import or export of any aircraft or class of aircraft.

<sup>1</sup> Subs. by s. 2 of the Indian Aircraft (Amendment) Act, 1948 (24 of 1948) for the original sub-section (2) which had been amended by s. 2 of the Indian Aircraft (Amendment) Act, 1939 (37 of 1939).

<sup>2</sup> Subs. by s. 3 of Act 24 of 1948 for the words “the Provinces” which had been substituted for the words “British India” by the A.O. 1948.

<sup>3</sup> Subs. by the A.O. 1937 for “G. G. in C.”.

<sup>4</sup> Subs. by the A.O. 1937 for “Gazette of India”.

<sup>5</sup> Subs. by s. 3 of Act 37 of 1939 for the words “the provisions of this Act and of the rules made thereunder, or from any of such provisions”.

<sup>6</sup> Subs. by the A.O. 1937 for “him”.

<sup>7</sup> See the Indian Aircraft Rules, 1937, published in the Gazette of India, 1937, Pt. 1, p. 683 to 719.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the authorities by which any of the powers conferred by or under this Act are to be exercised;
- <sup>1</sup>[(aa) the regulation of air transport services, and the prohibition of the use of aircraft in such services except under the authority of and in accordance with a licence authorising the establishment of the service;
- (ab) the information to be furnished by an applicant for, or the holder of, a licence authorising the establishment of an air transport service to such authorities as may be specified in the rules;]
- (b) the licensing, inspection and regulation of aerodromes, the conditions under which aerodromes may be maintained and the fees which may be charged thereat, and the prohibition or regulation of the use of unlicensed aerodromes;
- (c) the inspection and control of the manufacture, repair and maintenance of aircraft and of places where aircraft are being manufactured, repaired or kept;
- (d) the registration and marking of aircraft;
- (e) the conditions under which aircraft may be flown, or may carry passengers, mails or goods; or may be used for industrial purposes and the certificates, licences or documents to be carried by aircraft;
- (f) the inspection of aircraft for the purpose of enforcing the provisions of this Act and the rules thereunder, and the facilities to be provided for such inspection;
- (g) the licensing of persons employed in the operation, manufacture, repair or maintenance of aircraft;
- (h) the air-routes by which and the conditions under which aircraft may enter or leave <sup>2</sup>[India], or may fly over <sup>2</sup>[India], and the places at which aircraft shall land;
- (i) the prohibition of flight by aircraft over any specified area, either absolutely or at specified times or subject to specified conditions and exceptions;
- (j) the supply, supervision and control of air-route beacons, aerodrome lights, and lights at or in the neighbourhood of aerodromes or on or in the neighbourhood of air-routes;
- <sup>3</sup>[(jj) the installation and maintenance of lights on private property in the neighbourhood of aerodromes or on or in the neighbourhood of air-routes, by the owners or occupiers of such property, the payment by the Central Government for such installation and maintenance, and the supervision and control of such installation and maintenance, including the right of access to the property for such purposes;]

<sup>1</sup> Ins. by the Indian Aircraft (Amendment) Act, 1944 (5 of 1944), s. 2.

<sup>2</sup> Subs. by s. 8 of the Indian Aircraft (Amendment) Act, 1948 (24 of 1948) for the words "the Provinces" which had been subs. for the words "British India" by the A.O. 1948.

<sup>3</sup> Ins. by the Indian Aircraft (Amendment) Act, 1999 (37 of

- (k) the signals to be used for purposes of communication by or to aircraft and the apparatus to be employed in signalling;
- (l) the prohibition and regulation of the carriage in aircraft of any specified article or substance;
- (m) the measures to be taken and the equipment to be carried for the purpose of ensuring the safety of life;
- (n) the issue and maintenance of log-books;
- (o) the manner and conditions of the issue or renewal of any licence or certificate under the Act or the rules, the examinations and tests to be undergone in connection therewith, the form, custody, production, endorsement, cancellation, suspension or surrender of such licence or certificate, or of any log-book;
- (p) the fees to be charged in connection with any inspection, examination, test, certificate or licence, made, issued or renewed under this Act;
- (q) the recognition for the purposes of this Act of licences and certificates issued elsewhere than in <sup>1</sup>[India] relating to aircraft or to the qualifications of persons employed in the operation, manufacture, repair or maintenance of aircraft; and
- (r) any matter subsidiary or incidental to the matters referred to in this sub-section.

<sup>2</sup>[(3) Every rule made under this section shall be laid as soon as may be after it is made before<sup>3</sup> \* \* \* the Central Legislature, while it is in session, for a total period of one month which may be comprised in one session or in two or more sessions, and if before the expiry of that period, <sup>4</sup>[that Legislature makes any modifications in the rule or directs] that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be.]

Power of  
Central  
Government  
to make  
orders in  
emergency.

6. (1) If the <sup>5</sup>[Central Government] is of opinion that in the interests of the public safety or tranquillity the issue of <sup>6</sup>[it] or any of the following orders is expedient, <sup>6</sup>[it] may, by notification in the <sup>7</sup>[Official Gazette],—

- (a) cancel or suspend, either absolutely or subject to such conditions as <sup>6</sup>[it] may think fit to specify in the order, all or any licences or certificates issued under this Act;
- (b) prohibit, either absolutely or subject to such conditions as <sup>6</sup>[it] may think fit to specify in the order, or regulate in such manner as may be contained in the order, the flight of all or any aircraft or class of aircraft over the whole or any portion of <sup>1</sup>[India];

<sup>1</sup> Subs. by s. 3 of the Indian Aircraft (Amendment) Act, 1948 (24 of 1948) for the words "the Provinces" which had been subs. for the words "British India" by the A.O. 1948.

<sup>2</sup> Ins. by the Indian Aircraft (Amendment) Act, 1944 (5 of 1944), s. 3.

<sup>3</sup> The words "each of the Chambers of" rep. by the A.O. 1948.

<sup>4</sup> Subs. by the A.O. 1948 for the words "or where the period for which the rule is so laid, before one Chamber does not coincide with that for which it is so laid before the other, before the expiry of the later of these periods, both Chambers agree in making any modification in the rule or both Chambers agree".

<sup>5</sup> Subs. by the A.O. 1937 for "G. G. in C.".

<sup>6</sup> Subs. by the A.O. 1937 for "he".

<sup>7</sup> Subs. by the A.O. 1937 for "Gazette of India",

- (c) prohibit, either absolutely or conditionally, or regulate the erection, maintenance or use of any aerodrome, aircraft factory, flying-school or club, or place where aircraft are manufactured, repaired or kept, or any class or description thereof; and
- (d) direct that any aircraft or class of aircraft or any aerodrome, aircraft factory, flying-school or club, or place where aircraft are manufactured, repaired or kept, together with any machinery, plant, material or things used for the operation, manufacture, repair or maintenance of aircraft shall be delivered, either forthwith or within a specified time, to such authority, and in such manner as [it] may specify in the order, to be at the disposal of His Majesty for the public service.

(2) Any person who suffers direct injury or loss by reason of any order made under clause (c) or clause (d) of sub-section (1) shall be paid such compensation as may be determined by such authority as the [Central Government] may appoint in this behalf.

(3) The [Central Government] may authorise such steps to be taken to secure compliance with any order made under sub-section (1) as appear to [it] to be necessary.

(4) Whoever knowingly disobeys, or fails to comply with, or does any act in contravention of, an order made under sub-section (1) shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and the Court by which he is convicted may direct that the aircraft or thing (if any) in respect of which the offence has been committed, or any part of such thing, shall be forfeited to His Majesty.

7. (1) The [Central Government] may, by notification in the [Official Gazette], make rules<sup>5</sup> providing for the investigation of any accident arising out of or in the course of [the navigation—

- (a) in or over [India] of any aircraft, or
- (b) any where of aircraft registered in [India] ].

(2) Without prejudice to the generality of the foregoing power, such rules may—

- (a) require notice to be given of any accident in such manner and by such person as may be prescribed;
- (b) apply for the purposes of such investigation, either with or without modification, the provisions of any law for the time being in force relating to the investigation of accidents;
- (c) prohibit pending investigation access to or interference with aircraft to which an accident has occurred, and authorise any

Power of Central Government to make rules for investigation of accidents.

<sup>1</sup> Subs. by the A.O. 1937 for "he".

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in C".

<sup>3</sup> Subs. by the A.O. 1937 for "him".

<sup>4</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>5</sup> See Pt. X of the Indian Aircraft Rules, 1937, published in the Gazette of India, 1937, Pt. I, pp. 661 to 665.

<sup>6</sup> Subs. by s. 5 of the Indian Aircraft (Amendment) Act, 1939 (37 of 1939) for "air navigation in or over British India".

<sup>7</sup> Subs. by s. 8 of the Indian Aircraft (Amendment) Act, 1948 (24 of 1948) for the words "the Provinces" which had been subs. for the words "British India" by the A.O.

person so far as may be necessary for the purposes of an investigation to have access to, examine, remove, take measures for the preservation of, or otherwise deal with any such aircraft; and

- (d) authorise or require the cancellation, suspension, endorsement or surrender of any licence or certificate granted or recognised under this Act when it appears on an investigation that the licence ought to be so dealt with, and provide for the production of any such licence for such purpose.

**Power to detain aircraft,**

8. (1) Any authority authorised in this behalf by the <sup>1</sup>[Central Government] may detain any aircraft, if in the opinion of such authority—

- (a) having regard to the nature of an intended flight, the flight of such aircraft would involve danger to persons in the aircraft or to any other persons or property; or
- (b) such detention is necessary to secure compliance with any of the provisions of this Act or the rules applicable to such aircraft; or such detention is necessary to prevent a contravention of any rule made under clause (h) or clause (i) of sub-section (2) of section 5.

(2) The <sup>1</sup>[Central Government] may, by notification in the <sup>2</sup>[Official Gazette], make rules<sup>3</sup> regulating all matters incidental or subsidiary to the exercise of this power.

**Power of Central Government to make rules for protecting the public health,**

<sup>4</sup>[8A. The <sup>1</sup>[Central Government] may, by notification in the <sup>2</sup>[Official Gazette], make rules for the prevention of danger arising to the public health by the introduction or spread of any infectious or contagious disease from aircraft arriving at or being at any aerodrome and for the prevention of the conveyance of infection or contagion by means of any aircraft leaving an aerodrome and in particular and without prejudice to the generality of this provision may make, with respect to aircraft and aerodromes or any specified aerodrome, rules providing for any of the matters for which rules under sub-clauses (i) to (viii) of clause (p) of sub-section (1) of section 6 of the Indian Ports Act, 1908, may be made with respect to vessels and ports.]

**XV of 1908**

**Emergency powers for protecting the public health.**

<sup>5</sup>[8B. (1) If the Central Government is satisfied that India or any part thereof is visited by or threatened with an outbreak of any dangerous epidemic disease, and that the ordinary provisions of the law for the time being in force are insufficient for the prevention of danger arising to the public health through the introduction or spread of the disease by the agency of aircraft, the Central Government may take such measures as it deems necessary to prevent such danger.

(2) In any such case the Central Government may, without prejudice to the powers conferred by section 8A, by notification in the Official Gazette, make such temporary rules with respect to aircraft and persons travelling or things carried therein and aerodromes as it deems necessary in the circumstances.

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C.".

<sup>2</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>3</sup> See, for instance, rule 18 of the Indian Aircraft Rules, 1937 (Gazette of India, 1937, Pt. I, p. 640).

<sup>4</sup> Ins. by the Indian Aircraft (Amendment) Act, 1936 (7 of 1936), s. 2.

<sup>5</sup> Ins. by the Indian Aircraft (Amendment) Act, 1938 (22 of 1938),

(3) Notwithstanding anything contained in section 14, the power to make rules under sub-section (2) shall not be subject to the condition of the rules being made after previous publication, but such rules shall not remain in force for more than three months from the date of notification:

Provided that the Central Government may by special order continue them in force for a further period or periods of not more than three months in all.]

**XXI of 1923** 9. (1) The provisions of Part VII of the Indian Merchant Shipping Act, 1923, relating to Wreck and Salvage shall apply to aircraft on or over the sea or tidal waters as they apply to ships, and the owner of an aircraft shall be entitled to a reasonable reward for salvage services rendered by the aircraft in like manner as the owner of a ship. **Wreck and salvage.**

(2) The <sup>1</sup>[Central Government] may, by notification in the <sup>2</sup>[Official Gazette], make such modifications of the said provisions in their application to aircraft as appear necessary or expedient.

10. In making any rule under section 5, section 7, <sup>3</sup>[section 8 <sup>4</sup>section 8A or section 8B]] the <sup>1</sup>[Central Government] may direct that a breach of it shall be punishable with imprisonment for any term not exceeding three months, or with fine of any amount not exceeding one thousand rupees or with both. **Penalty for act in contravention of rule made under this act.**

11. Whoever wilfully flies any aircraft in such a manner as to cause danger to any person or to any property on land or water or in the air shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. **Penalty for flying so as to cause danger.**

12. Whoever abets the commission of any offence under this Act or the rules, or attempts to commit such offence, and in such attempt does any act towards the commission of the offence, shall be liable to the punishment provided for the offence. **Penalty for abetment of offences and attempted offences.**

13. Where any person is convicted of an offence punishable under any rule made under clause (i) or clause (l) of sub-section (2) of section 5, the Court by which he is convicted may direct that the aircraft or article or substance, as the case may be, in respect of which the offence has been committed, shall be forfeited to His Majesty. **Power of Court to order forfeiture.**

14. Any power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication for a period of not less than three months. **Rules to be made after publication.**

**II of 1911.** 15. The provisions of section 42 of the Indian Patents and Designs Act, 1911, shall apply to the use of an invention on any aircraft not registered in <sup>5</sup>[India] in like manner as they apply to the use of an invention in a foreign vessel. **Use of patented invention on aircraft not required in India.**

<sup>1</sup> Subs. by the A.O. 1937, for "G. G. in C.".

<sup>2</sup> Subs by the A.O. 1937, for "Gazette of India".

<sup>3</sup> Subs. by the Indian Aircraft (Amendment) Act, 1936 (7 of 1936), s. 3, for "or section 8".

<sup>4</sup> Subs. by the Indian Aircraft (Amendment) Act, 1938 (22 of 1938), s. 3 for "or section 8A".

<sup>5</sup> Subs. by s. 3 of the Indian Aircraft (Amendment) Act, 1948 (24 of 1948) for the words "the Provinces" which had been subs. for the words "British India" by the A.O. 1948.



Power to  
apply  
customs  
procedure.

16. The <sup>1</sup>[Central Government] may, by notification in the <sup>2</sup>[Official Gazette], declare that any or all of the provisions of the Sea Customs Act, 1878, shall, with such modifications and adaptations as may be specified in the notification, apply to the import and export of goods by air.

VIII of 1878

Bar of  
certain  
suits.

17. No suit shall be brought in any Civil Court in respect of trespass or in respect of nuisance by reason only of the flight of aircraft over any property at a height above the ground which having regard to wind, weather and all the circumstances of the case is reasonable, or by reason only of the ordinary incidents of such flight.

Saving for  
acts done in  
good faith  
under the  
Act.

18. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

Saving of  
application  
of Act.

19. (1) Nothing in this Act or in any order or rule made thereunder shall apply to or in respect of any aircraft belonging to or exclusively employed in His Majesty's naval, military or air forces, or to any person in such forces employed in connection with such aircraft.

(2) Nothing in this Act or in any order or rule made thereunder shall apply to or in respect of any lighthouse to which the Indian Lighthouse Act, 1927, applies or prejudice or affect any right or power exercisable by any authority under that Act.

XI of 1927

20. [Repeals.] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

## THE FACTORIES ACT, 1934

### CONTENTS.

#### CHAPTER I.

#### PRELIMINARY.

#### SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. References to time of day
4. Seasonal factories.
5. Power to apply provisions applicable to factories to certain other places.
6. Power to declare departments to be separate factories.
7. Power to exempt on a change in the factory.
8. Power to exempt during public emergency.
9. Notice to Inspector before commencement of work.

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C.".

<sup>2</sup> Subs. by the A.O. 1937 for "Gazette of India".

## CHAPTER II.

## THE INSPECTING STAFF.

## SECTIONS.

- 10. Inspectors.
- 11. Powers of Inspector.
- 12. Certifying surgeons.

## CHAPTER III.

## HEALTH AND SAFETY.

- 13. Cleanliness.
- 14. Ventilation.
- 15. Artificial humidification.
- 16. Cooling.
- 17. Overcrowding.
- 18. Lighting.
- 19. Water.
- 20. Latrines and urinals.
- 21. Doors to open outwards.
- 22. Precautions against fire.
- 23. Means of escape.
- 24. Fencing.
- 25. Power to require specifications of defective parts or tests of stability.
- 26. Safety of buildings and machinery.
- 27. Restrictions on work near machinery in motion.
- 28. Power to exclude children.
- 29. Prohibition of employment of women and children near cotton-openers.
- 30. Notice of certain accidents.
- 31. Appeals.
- 32. Power of Provincial Government to make rules to supplement this Chapter.  
Shelters during rest,—rooms for children.—
- 33. Additional power to make health and safety rules relating to—  
certificates of stability,—hazardous operations.
- 33A. Power to make rules for the provision of canteens.

## CHAPTER IV.

## RESTRICTIONS ON WORKING HOURS OF ADULTS.

- 34. Weekly hours.
- 35. Weekly holiday.
- 35A. Compensatory holidays.
- 36. Daily hours.

## SECTIONS.

- 37. Intervals for rest.
- 38. Spreadover.
- 39. Notice of Periods for Work for Adults and preparation thereof.
- 40. Copy of Notice of Periods for Work to be sent to Inspector.
- 41. Register of Adult Workers.
- 42. Hours of work to correspond with Notice under section 39 and Register under section 41.
- 43. Power to make rules exempting from restrictions.
- 44. Power to make orders exempting from restrictions.
- 45. Further restrictions on the employment of women.
- 46. Special provision for night shifts.
- 47. Extra pay for overtime.
- 48. Restriction on double employment.
- 49. Control of overlapping shifts.

---

CHAPTER IV—A.

## HOLIDAYS WITH PAY.

- 49A. Application of Chapter.
- 49B. Annual holidays.
- 49C. Pay during annual holidays.
- 49D. Payment when to be made.
- 49E. Power of Inspector to act for worker.
- 49F. Power to make rules.
- 49G. Exemption of factories from provisions of this Chapter.

## CHAPTER V.

## SPECIAL PROVISIONS FOR ADOLESCENTS AND CHILDREN.

- 50. Prohibition of employment of young children.
- 51. Non-adults workers to carry tokens giving reference to certificates of fitness.
- 52. Certificates of fitness.

## SECTIONS.

- 53. Effect of certificate granted to adolescent.
  - 54. Restrictions on the working hours of a child
  - 55. Notice of Periods for Work for children.
  - 56. Register of Child Workers.
  - 57. Hours of work to correspond with Notice and Register.
  - 58. Power to require medical examination.
  - 59. Power to make rules.
- 

## CHAPTER VA.

## SMALL FACTORIES.

- 59A. Small factories.
  - 59B. Certain provisions of this Act to apply to small factories wherein child labour is employed.
  - 59C. Certain other provisions of law not barred.
- 

## CHAPTER VI.

## PENALTIES AND PROCEDURE.

- 60. Penalty for contraventions of Act and rules.
- 61. Enhanced penalty in certain cases after previous conviction.
- 62. Penalty for failure to give notice of commencement of work or of change of manager.
- 63. Penalty for obstructing Inspector.
- 64. Penalty for failure to give notice of accidents.
- 65. Penalty for failure to make returns.
- 66. Penalty for smoking or using naked light in vicinity of inflammable material.

67. Penalty for using false certificate.
68. Penalty on guardian for permitting double employment of a child.
69. Pnalty for failure to display certain notices.
70. Determination of "occupier" for purposes of this Chapter.
71. Exemption of occupier or manager from liability in certain cases.
72. Presumption as to employment.
73. Evidence as to age.
74. Cognizance of offences.
75. Limitation of prosecutions.

---

## CHAPTER VII.

### SUPPLEMENTAL.

76. Display of factory notices.
  77. Power of Provincial Governments to make rules.
  78. *Omitted.*
  79. Publication of rules.
  80. Application to Crown factories.
  81. Protection to persons acting under this Act.
  82. *Repealed.*
- The Schedule—Repealed.*
-

ACT No. XXV of 1934<sup>1</sup>

[20th August, 1934.]

## An Act to consolidate and amend the law regulating labour in factories

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories; It is hereby enacted as follows:—

## CHAPTER I.—PRELIMINARY.

(1) This Act may be called the Factories Act, 1934.

Short title,  
extent and  
commence-  
ment.

(2) It extends to <sup>2</sup>all the Provinces of India] including <sup>3</sup>\* \* \* the Sonthal Parganas.

(3) It shall come into force on the 1st day of January, 1935.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “adolescent” means a person who has completed his fifteenth but has not completed his seventeenth year;

(b) “adult” means a person who has completed his seventeenth year;

(c) “child” means a person who has not completed his fifteenth year;

(d) “day” means a period of twenty-four hours beginning at mid night;

(e) “week” means a period of seven days beginning at midnight on Saturday night;

(f) “power” means electrical energy, and any other form of energy which is mechanically transmitted and is not generated by human or animal agency;

(g) “manufacturing process” means any process—

3. For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V. p. 175 for Report of Select Committee, see *ibid*, 1934, Pt. V. p. 44.

This Act is supplemented in the C.P. by the C.P. Unregulated Factories Act, 1937 (C.P. Act 21 of 1937), and amended in—

1. The Province of C.P. & Berar by the C.P. & Berar Factories (Amendment) Act, 1939 (C.P. & B. Act 36 of 1939);

2. the Punjab (now East Punjab) by the Factories (Punjab Amendment) Act, 1940 (Punjab Act 7 of 1940);

3. the Province of Madras by the Factories (Madras Amendment) Act, 1941 (Madras Act 6 of 1941);

This Act has been extended to—

1. Berar by the Berar Laws Act, 1941 (4 of 1941);

2. the Angul District by the Angul Laws (Amendment) Regulation, 1940 (Orissa Regulation 3 of 1940);

3. the Khondmals District by the Khondmals Laws (Amendment) Regulation, 1940 (Orissa Regulation 4 of 1940).

<sup>2</sup> Subs. by the A.O. 1948 for “the whole of British India”.

<sup>3</sup> The words “British Baluchistan and” rep. by the A.O. 1948.

*Chapter I.—Preliminary.*

- (i) for making, altering, repairing, ornamenting, finishing or packing, or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal, or
  - (ii) for pumping oil, water or sewage, or
  - (iii) for generating, transforming or transmitting power;
  - (h) "worker" means a person employed, whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work whatsoever incidental to or connected with the manufacturing process or connected with the subject of the manufacturing process, but does not include any person solely employed in a clerical capacity in any room or place where no manufacturing process is being carried on;
  - (j) "factory" means any premises including the precincts thereof whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, but does not include a mine subject to the operation of the Indian Mines Act, 1923;
  - (k) "machinery" includes all plant whereby power is generated, transformed, transmitted or applied ;
  - (l) "occupier" of a factory means the person who has ultimate control over the affairs of the factory :
- Provided that where the affairs of a factory are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory ;
- (m) where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a "relay", and the period or periods for which it works is called a "shift" ; and
- (n) "prescribed" means prescribed by rules made by the <sup>1</sup>[Provincial Government] under this Act.

IV of 1923.

References  
to time of  
day.

3. Reference to time of day in this Act are References—

2\* \* \* 3\* \* to Indian Standard Time which is five and a half hours ahead of Greenwich Mean Time,<sup>4\*</sup>

5\* \* \* Provided that for any area <sup>6\*</sup> in which Indian Standard Time is not ordinarily observed the <sup>1</sup>[Provincial Government] may make rules—

(i) specifying the area,

<sup>1</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>2</sup> The words "(n) in British India" rep. by the A.O. 1948.

<sup>3</sup> The words "excluding Burma" rep. by the A.O. 1937.

<sup>4</sup> The word "and" rep. by the A.O. 1948.

<sup>5</sup> Clause (b) rep. by the A.O. 1937.

<sup>6</sup> The words "in British India" rep. by the A.O. 1948.

## Chapter I.—Preliminary.

(ii) defining the local mean time ordinarily observed therein, and

(iii) permitting such time to be observed in all or any of the factories situated in the area.

4. (1) For the purposes of this Act, a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, the decortication of ground nuts, the manufacture of coffee, indigo, lac, rubber, sugar (including *gur*) or tea, or any manufacturing process which is incidental to or connected with any of the aforesaid processes, is a seasonal factory :

Seasonal  
factories.

Provided that the <sup>1</sup>[Provincial Government] may by notification in the <sup>2</sup>[official Gazette], declare any such factory in which manufacturing processes are ordinarily carried on for more than one hundred and eighty working days in the year, not to be a seasonal factory for the purposes of this Act.

(2) The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[official Gazette], declare any specified factory in which manufacturing processes are ordinarily carried on for not more than one hundred and eighty working days in the year and cannot be carried on except during particular seasons or at times dependent on the irregular action of natural forces, to be a seasonal factory for the purposes of this Act.

<sup>3</sup>[5. (1) The Provincial Government may, by notification in the official Gazette, declare that all or any of the provisions of this Act applicable to factories shall apply to any place wherein a manufacturing process is being carried on or is ordinarily carried on whether with or without the use of power whenever ten or more workers are working therein or have worked therein on any one day of the twelve months immediately preceding.

Power to  
apply  
provisions  
applicable  
to factories  
to certain  
other places

(2) A notification under sub-section (1) may be made in respect of any one such place or in respect of any class of such places or generally in respect of all such places.

(3) Notwithstanding anything contained in clause (j) of section 2, a place, to which all or any of the provisions of this Act applicable to factories are for the time being applicable in pursuance of a declaration under sub-section (1), shall, to the extent to which such provisions are so made applicable but not otherwise, be deemed to be a factory.]

6. The <sup>1</sup>[Provincial Government] may, by order in writing, direct that the different departments or branches of a specified factory shall be treated as separate factories for all or any of the purposes of this Act.

Power to  
declare  
depart-  
ments to be  
separate  
factories.

7. Where the <sup>1</sup>[Provincial Government] is satisfied that, following upon a change of occupier of a factory or in the manufacturing processes carried on therein, the number of workers for the time being working in the factory is less than twenty and is not likely to be twenty or more on any day during the ensuing twelve months, it may, by order in writing, exempt such factory from the operation of this Act :

Power to  
exempt  
on a change  
in the  
factory.

<sup>1</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>2</sup> Subs. by the A.O. 1937 for "local Official Gazette".

<sup>3</sup> Subs. by the Factories (Amendment) Act, 1941 (16 of 1941), s. 2.



*Chapter I.—Preliminary.—Chapter II.—The Inspecting Staff.*

Provided that any exemption so granted shall cease to have effect on and after any day on which twenty or more workers work in the factory.

Power to  
exempt  
during  
public  
emergency.

Notice to  
Inspector  
before  
commence-  
ment of  
work.

8. In any case of public emergency the <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[Official Gazette], exempt any factory from any or all of the provisions of this Act for such period as <sup>3</sup>[it] may think fit.

9. (1) Before work is begun in any factory after the commencement of this Act, or before work is begun in any seasonal factory each season, the occupier shall send to the Inspector a written notice containing—

- (a) the name of the factory and its situation,
- (b) the address to which communications relating to the factory should be sent,
- (c) the nature of the manufacturing processes to be carried on in the factory.
- (d) the nature and amount of the power to be used, 4\* \* \*
- (e) the name of the person who shall be the manager of the factory for the purposes of this Act, <sup>5</sup>[and
- (f) such other particulars as may be prescribed for the purposes of this Act.]

(2) Whenever another person is appointed as manager, the occupier shall send to the Inspector a written notice of the change, within seven days from the date on which the new manager assumes charge.

(3) During any period for which no person has been designated as manager of a factory, under this section, or during which the person designated does not manage the factory, any person found acting as manager, or, if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for the purposes of this Act.

## CHAPTER II.—THE INSPECTING STAFF.

Inspectors.

10. (1) The <sup>6</sup>[Provincial Government] may, by notification in the <sup>7</sup>[Official Gazette], appoint such person as it thinks fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

(2) The <sup>6</sup>[Provincial Government] may, by notification as aforesaid, appoint any person to be a Chief Inspector, who shall, in addition to the powers conferred on a Chief Inspector under this Act, exercise the powers of an Inspector throughout the province.

(3) No person shall be appointed to be an Inspector under sub-section (1) or a Chief Inspector under sub-section (2) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly inter-

<sup>1</sup> Subs. by the A.O. 1937, for "G. G. in C.".

<sup>2</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>3</sup> Subs. by the A.O. 1937 for "he".

<sup>4</sup> The word "and" was rep. by the Factories (Amendment) Act, 1944 (14 of 1944), s. 2.

<sup>5</sup> The word "and" and clause (f) were added, *ibid*.

<sup>6</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>7</sup> Subs. by the A.O. 1937 for "Local Official Gazette".

*Chapter II.—The Inspecting Staff.*

ested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(4) Every District Magistrate shall be an Inspector for his district.

(5) The <sup>1</sup>[Provincial Government] may also, by notification as aforesaid, appoint such public officers as it thinks fit to be additional Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(6) In any area where there are more Inspectors than one, the <sup>1</sup>[Provincial Government] may, by notification as aforesaid declare the powers which such Inspectors shall respectively exercise, and the Inspector to whom the prescribed notices are to be sent.

XLV of  
1860.

(7) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code and shall be officially subordinate to such authority as the <sup>1</sup>[Provincial Government] may specify in this behalf.

11 Subject to any rules made by the <sup>1</sup>[Provincial Government] in this behalf, an Inspector may, within the local limits for which he is appointed,—

**Powers of  
Inspector.**

(a) enter, with such assistants (if any), being persons <sup>2</sup>in the service of the Crown or of any municipal or other public authority, as he thinks fit, any place which is, or which he has reason to believe to be, used as a factory or capable of being declared to be a factory under the provisions of section 5 ;

(b) make such examination of the premises and plant and of any prescribed registers, and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Act; and

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act :

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

12. (1) The <sup>1</sup>[Provincial Government] may appoint such registered medical practitioners as it thinks fit to be certifying surgeons for the purposes of this Act within such local limits as it may assign to them respectively.

**Certifying  
surgeons.**

(2) A certifying surgeon may authorise any registered medical practitioner to exercise any of his powers under this Act :

Provided that a certificate of fitness for employment granted by such authorised practitioner shall be valid for a period of three months only, unless it is confirmed by the certifying surgeon himself after examination of the person concerned.

*Explanation.*—In this section a "registered medical practitioner" means any person registered under the Medical Act, 1858 (21 & 22 Vict. ;

<sup>1</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>2</sup> Subs. by the A.O. 1937 for "in the employment of Government".

*Chapter II.—The Inspecting Staff.—Chapter III.—Health and Safety.*

c. 90), or any subsequent enactment amending it, or under any Act of <sup>1</sup>[the Central Legislature or of any Legislature in a province] providing for the maintenance of a register of medical practitioners, and includes, in any area where no such register is maintained, any person declared by the <sup>2</sup>[Provincial Government] by notification in the <sup>3</sup>[official Gazette], to be a registered medical practitioner for the purposes of this section.

*Chapter III.—Health and Safety.*

**Cleanliness** 13. Every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and shall be cleansed at such times and by such methods as may be prescribed, and these methods may include lime-washing or colour-washing, painting, varnishing, disinfecting and deodorising.

**Ventilation.** 14. (1) Every factory shall be ventilated in accordance with such standards and by such methods as may be prescribed.

(2) Where gas, dust or other impurity is generated in the course of work, adequate measures shall be taken to prevent injury to the health of workers.

(3) If it appears to the Inspector that in any factory gas, dust or other impurity generated in the course of work is being inhaled by the workers to an injurious extent, and that such generation or inhalation could be prevented by the use of mechanical or other devices, he may serve on the manager of the factory an order in writing, directing that mechanical or other devices for preventing such generation or inhalation shall be provided before a specified date, and shall thereafter be maintained in good order and used throughout working hours.

(4) The <sup>2</sup>[Provincial Government] may make rules for any class of factories requiring mechanical or other devices to be provided and maintained for preventing the generation or inhalation of gas, dust or other impurities, which may be injurious to workers and specifying the nature of such devices.

**Artificial  
humidifica-  
tion,**

15. (1) The <sup>2</sup>[Provincial Government] may make rules—

(a) prescribing standards for the cooling properties of the air in factories in which the humidity of the air is artificially increased ;

(b) regulating the methods used for artificially increasing the humidity of the air ; and

(c) directing prescribed tests for determining the humidity and cooling properties of the air to be carried out and recorded.

(2) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply or other source of drinking water, or shall be effectively purified before it is so used.

(3) If it appears to the Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-

<sup>1</sup> Subs. by the A.O. 1948 for "any legislature in British India".

<sup>2</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>3</sup> Subs. by the A.O. 1937 for "local official Gazette".

*Chapter III.—Health and Safety.*

section (2) is not effectively purified, he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

16. If it appears to the Chief Inspector or to an Inspector specially authorised in this behalf by the <sup>1</sup>[Provincial Government] that the cooling properties of the air in any factory are at times insufficient to secure workers against injury to health or against serious discomfort, and that they can be to a great extent increased by measures which will not involve an amount of expense which is unreasonable in the circumstances, the Chief Inspector may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date. **Cooling.**

17. In order that no room in a factory shall be crowded during working hours to a dangerous extent or to an extent which may be injurious to the health of the workers, the proportion which the number of cubic feet of space in a room and the number of superficial feet of its floor area bears to the number of workers working at any time therein shall not be less than such standards as may be prescribed either generally or for the particular class of work carried on in the room. **Overcrowding**

18. (1) A factory shall be sufficiently lighted during all working hours. **Lighting.**

(2) If it appears to the Inspector that any factory is not sufficiently lighted, he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(3) The <sup>1</sup>[Provincial Government] may make rules requiring that all factories of specified classes shall be lighted in accordance with prescribed standards.

19. (1) In every factory a sufficient supply of water fit for drinking shall be provided for the workers at suitable places. **Water**

(2) The supply required by sub-section (1) shall comply with such standards as may be prescribed.

(3) In every factory <sup>2</sup>\* \* \* a sufficient supply of water suitable for washing shall be provided for the use of workers, at suitable places and with facilities for its use, according to such standards as may be prescribed.

20. For every factory sufficient latrines and urinals, according to the prescribed standards, shall be provided, for male workers and for female workers separately, of suitable patterns and at convenient places as prescribed, and shall be kept in a clean and sanitary condition during all working hours. **Latrines and urinals.**

21. In every factory the doors of each room in which more than twenty persons are employed shall, except in the case of sliding doors, be constructed so as to open outwards, or, where the door is between two **Doors to open outwards.**

<sup>1</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>2</sup> The words "in which any process involving contact by the workers with injurious or obnoxious substances is carried on", were rep. by the Factories (Amendment) Act, 1944 (14 of 1944), s. 3.

*Chapter III.—Health and Safety.*

rooms, in the direction of the nearest exit from the building, and no such door shall be locked or obstructed while any work is being carried on in the room.

**Precautions against fire.** 22. In every factory such precautions against fire shall be taken as may be prescribed.

**Means of escape.**

23. (1) Every factory shall be provided with such means of escape in case of fire <sup>1</sup>[as may be prescribed].

(2) If it appears to the Inspector that any factory is not so provided he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(3) The means of escape shall not be obstructed while any work is being carried on in the factory.

**Fencing.**

24. (1) In every factory the following shall be kept adequately fenced, namely :—

(a) every exposed moving part of a prime mover and every flywheel directly connected to a prime mover,

(b) every hoist or lift, hoist-well or lift-well, and every trap-door or similar opening near which any person may have to work or pass, and

(c) every part of the machinery which the <sup>2</sup>[Provincial Government] may prescribe.

(2) If it appears to the Inspector that any other part of the machinery in a factory is dangerous if not adequately fenced, he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(3) All fencing required by or under this section or under sub-section (1) of section 26 shall be maintained in an efficient state at all times when the workers have access to the parts required to be fenced except where they are under repair or are under examination in connection with repair or are necessarily exposed for the purpose of cleaning or lubricating or altering the gearing or arrangements of the machinery.

(4) Such further provisions as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery in a factory.

**Power to require specifications of defective parts or tests of stability.**

25. If it appears to the Inspector that any building or part of a building, or any part of the ways, machinery or plant in a factory is in such a condition that it may be dangerous to human life or safety, he may serve on the manager of the factory an order in writing requiring him before a specified date—

(a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or

<sup>1</sup> Subs. by s. 4 of the Factories (Amendment) Act, 1944 (14 of 1944) for "as can reasonably be required in the circumstances of each factory".

<sup>2</sup> Subs. by the A.O. 1937 for "L. G.",

*Chapter III.—Health and Safety.*

(b) to carry out such tests as may be necessary to determine the strength or quality of any specified parts and to inform the Inspector of the results thereof.

26. (1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on the manager of the factory an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

**Safety of buildings and machinery.**

(2) If it appears to the Inspector that the use of any building or part of a building or of any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on the manager of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

27. (1) No woman or child shall be allowed to clean or oil any part of the machinery of a factory while that part is in motion under power, or to work between moving parts or between fixed and moving parts of any machinery which is in motion under power.

**Restrictions on work near machinery in motion.**

(2) The <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[official Gazette], prohibit, in any specified factory or class of factories, the cleaning or oiling by any person of specified parts of machinery when these parts are in motion under power.

28. (1) The <sup>1</sup>[Provincial Government] may make rules prohibiting the admission to any specified class of factories, or to specified parts thereof, of children who cannot be lawfully employed therein.

**Power to exclude children.**

(2) If it appears to the Inspector that the presence in any factory or part of a factory of children who cannot be lawfully employed therein may be dangerous to them or injurious to their health, he may serve on the manager of the factory an order in writing directing him to prevent the admission of such children to the factory or any part of it.

29. No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work:

**Prohibition of employment of women and children near cotton-openers.**

Provided that, if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof, or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

30. Where in any factory an accident occurs which causes death, or which causes any bodily injury whereby any person injured is prevented from resuming his work in the factory during the forty-eight hours after the accident occurred, or which is of any nature which may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

**Notice of certain accidents.**

31. (1) The manager of a factory on whom an order in writing by an Inspector has been served under the provisions of this Chapter, or the occupier of the factory, may, within thirty days of the service of the

**Appeals.**

<sup>1</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>2</sup> Subs. by the A.O. 1937 for "local official Gazette".

## Chapter III.—Health and Safety.

order, appeal against it to the "[Provincial Government], or to such authority as the "[Provincial Government] may appoint in this behalf, and the "[Provincial Government] or appointed authority may, subject to rules made in this behalf by the "[Provincial Government], confirm, modify or reverse the order.

(2) The appellate authority may, if so required in the petition or appeal shall, hear the appeal with the aid of assessors, one of whom shall be appointed by the appellate authority and the other by such body representing the industry concerned as the "[Provincial Government] may prescribe in this behalf :—

Provided that if no assessor is appointed by such body, or if the assessor so appointed fails to attend at the time and place fixed for hearing the appeal, the appellate authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor, or, if it thinks fit, without the aid of any assessor.

(3) In the case of an appeal against an order under section 16 the appellate authority shall, and in any other case except an appeal against an order under sub-section (2) of section 26 or sub-section (2) of section 28 the appellate authority may, suspend the order appealed against pending the decision of the appeal, subject however to such conditions as to partial compliance or the adoption of temporary measures as it may choose to impose in any case.

**Power of Provincial Government to make rules to supplement this Chapter.**

32. The "[Provincial Government] may make rules—

(a) providing for any matter which, according to any of the provisions of this Chapter, is or may be prescribed ;

(b) requiring the managers of factories to maintain stores of first-aid appliances and provide for their proper custody ;

(c) providing against danger arising from the use of mechanical transport in factories, other than railways subject to the Indian Railways Act, **IX of 1890**, 1890).

(d) prescribing the manner of the service of orders under this Chapter on managers of factories ;

(e) regulating the procedure to be followed in presenting and hearing appeals under section 31, and the appointment and remuneration of assessors ;

(f) regulating the exercise by Inspectors of their powers under this Chapter ; and

(g) providing for any other matter which may be expedient in order to give effect to the provisions of this Chapter.

**Additional power to make health and safety rules relating to—Shelter during rest.**

33. (1) The "[Provincial Government] may make rules requiring that in any specified factory, wherein more than one hundred and fifty workers are ordinarily employed, an adequate shelter shall be provided for the use of workers during periods of rest, and such rules may prescribe the standards of such shelters.

\* Subs. by the A. O. 1937, for "L. G."

## Chapter III.—Health and Safety.

(2) The <sup>1</sup>[Provincial Government] may also make rules—

**Rooms for children.**

(a) requiring that in any specified factory, wherein more than fifty women workers are ordinarily employed, a suitable room shall be reserved for the use of children under the age of six years belonging to such women, and

(b) prescribing the standards for such rooms and the nature of the supervision to be exercised over the children therein.

(3) The <sup>1</sup>[Provincial Government] may also make rules, for any class of factories and for the whole or any part of the province requiring that work on a manufacturing process carried on with the aid of power shall not be begun in any building or part of a building erected or taken into use as a factory after the commencement of this Act, until a certificate of stability in the prescribed form, signed by a person possessing the prescribed qualifications, has been sent to the Inspector.

**Certificate of stability**

(4) Where the <sup>2</sup>[Provincial Government] is satisfied that any operation in a factory exposes any persons employed upon it to a serious risk of bodily injury, poisoning or disease, <sup>3</sup>[it] may make rules applicable to any factory or class of factories in which the operation is carried on—

**Hazardous operation.**

(a) specifying the operation and declaring it to be hazardous,

(b) prohibiting or restricting the employment of women, adolescents or children upon the operation,

(c) providing for the medical examination of persons employed or seeking to be employed upon the operation and prohibiting the employment of persons not certified as fit for such employment, and

(d) providing for the protection of all persons employed upon the operation or in the vicinity of the places where it is carried on.

<sup>4</sup>33A. (1) The Provincial Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, an adequate canteen shall be provided for the use of the workers.

**Power to make rules for the provision of canteens.**

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the date by which such canteen shall be provided ;

(b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen ;

(c) the foodstuffs to be served therein and the charges which may be made therefor ;

(d) representation of the workmen in the management of the canteens ;

<sup>1</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in C.".

<sup>3</sup> Subs. by the A.O. 1937 for "he".

<sup>4</sup> Ins. by the Factories (Amendment) Act, 1947 (5 of 1947).



*Chapter III.—Health and Safety.—Chapter IV.—Restrictions on working Hours of Adults.*

(c) enabling, subject to such conditions, if any, as may be specified, the power to make rules under clause (c) to be exercised also by the Chief Inspector.]

CHAPTER IV.—RESTRICTIONS ON WORKING HOURS OF ADULTS.

Weekly  
hours.

34. No adult worker shall be allowed to work in a factory for more than <sup>1</sup>[forty-eight] hours in any week, or, where the factory is a seasonal one, for more than <sup>2</sup>[fifty] hours in any week:

Provided that an adult worker in a <sup>3</sup>\* \* factory engaged in work which for technical reasons must be continuous throughout the day may work for fifty-six hours in any week.

Weekly  
holiday.

35. (1) No adult worker shall be allowed to work in a factory on a Sunday unless—

(a) he has had or will have a holiday for a whole day on one of the three days immediately before or after that Sunday, and

(b) the manager of the factory has, before that Sunday or the substituted day, whichever is earlier,—

(i) delivered a notice to the office of the Inspector of his intention to require the worker to work on the Sunday and of the day which is to be substituted, and

(ii) displayed a notice to that effect in the factory:

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notices given under sub-section (1) may be cancelled by a notice delivered to the office of the Inspector and a notice displayed in the factory not later than the day before the Sunday or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1), any worker works on a Sunday and has had a holiday on one of the three days immediately before it, that Sunday shall, for the purpose of calculating his weekly hours of work, be included in the preceding week.

Compensa-  
tory holi-  
days.

<sup>4</sup>[35A. (1) Where, as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 35, a worker is deprived of any of the weekly holidays for which provision is made by sub-section (1) of that section, he shall be allowed, as soon as circumstances permit, compensatory holidays of equal number to the holidays so lost.

<sup>1</sup> Subs. by s. 2 of the Factories (Amendment) Act, 1946 (10 of 1946) for "fifty four".

<sup>2</sup> Subs., *ibid*, for "sixty".

<sup>3</sup> The word "non-seasonal" rep. by Act 5 of 1947 s. 8.

<sup>4</sup> Ins. by s. 2 of the Factories (Amendment) Act, 1945 (3 of 1945) (with effect from 1st January 1946).

*Chapter IV.—Restrictions on working Hours of Adults.*

(2) The Provincial Government may make rules prescribing the manner in which the holidays, for which provision is made in sub-section (1), shall be allowed.]

36. No adult worker shall be allowed to work in a factory for more than <sup>1</sup>[nine] hours in any day.

Daily hours

Provided that a male adult worker in a seasonal factory may work for <sup>2</sup>[ten] hours in any day.

37. The periods of work of adult workers in a factory during each day shall be fixed either—

(a) so that no period shall exceed six hours, and so that no worker shall work for more than six hours before he has had an interval for rest of at least one hour ; or

Intervals  
for rest.

(b) so that no period shall exceed five hours and so that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour, or for more than eight and a half hours before he has had at least two such intervals.

38. The periods of work of an adult worker in a factory shall be so arranged that along with his intervals for rest under section 37, they shall not spread over more than <sup>3</sup>[ten and a half] hours, or where the factory is a seasonal one, eleven and a half hours in any day, save with the permission of the <sup>4</sup>[Provincial Government] and subject to such conditions as it may impose, either generally or in the case of any particular factory.

Spreadover.

39. (1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of section 76 a Notice of Periods for Work for Adults showing clearly the periods within which adult workers may be required to work.

Notice of  
Periods for  
work for  
Adults and  
preparation  
thereof.

(2) The periods shown in the Notice required by sub-section (1) shall be fixed beforehand in accordance with the following provisions of this section and shall be such that workers working for those periods would not be working in contravention of any of the provisions of sections 34, 35, 36, 37 and 38.

(3) Where all the adult workers in a factory are required to work within the same periods, the manager of the factory shall fix those periods for such workers generally.

(4) Where all the adult workers in a factory are not required to work within the same periods, the manager of the factory shall classify them into groups according to the nature of their work.

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods within which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not to be subject to predetermined periodical changes of shift, the manager of the factory shall fix the periods within which each relay of the group may be required to work.

<sup>1</sup> Subs. by s. 3 of the Factories (Amendment) Act, 1916 (10 of 1916) for "ten".

<sup>2</sup> Subs. *ibid.*, for "eleven".

<sup>3</sup> Subs. by s. 4 *ibid.* for "thirteen".

<sup>4</sup> Subs. by the A. O. 1937 for "L. G".

*Chapter IV.—Restrictions on working Hours of Adults.*

(7) Where any group is to work on a system of shifts and the relays are to be subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts whereunder the periods within which any relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

(8) The <sup>1</sup>[Provincial Government] may make rules prescribing forms for the Notice of Periods for Work for Adults and the manner in which it shall be maintained.

**Copy of  
Notice of  
Periods for  
Work to be  
sent to  
Inspector.**

40. (1) A copy of the Notice referred to in sub-section (1) of section 39 shall be sent in duplicate to the Inspector within fourteen days after the commencement of this Act, or, if the factory begins work after the commencement of this Act, before the day on which it begins work.

(2) Any proposed change in the system of work in a factory which will necessitate a change in the Notice shall be notified to the Inspector in duplicate before the change is made, and, except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

**Register of  
Adult  
Workers.**

41. (1) The manager of every factory shall maintain a Register of Adult Workers showing—

- (a) the name of each adult worker in the factory,
  - (b) the nature of his work,
  - (c) the group, if any, in which he is included,
  - (d) where his group works on shifts, the relay to which he is allotted,
- and
- (e) such other particulars as may be prescribed:

Provided that, if the Inspector is of opinion that any muster roll or register maintained as part of the routine of a factory gives in respect of any or all of the workers in the factory the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall to the corresponding extent be maintained in place of and be treated as the Register of Adult Workers in that factory:

Provided further that, where the <sup>1</sup>[Provincial Government] is satisfied that the conditions of work in any factory or class of factories are such that there is no appreciable risk of contravention of the provisions of this Chapter in the case of that factory or factories of that class, as the case may be, the <sup>1</sup>[Provincial Government] may, by written order, exempt, on such conditions as it may impose, that factory or all factories of that class, as the case may be, from the provisions of this section.

(2) The <sup>1</sup>[Provincial Government] may make rules prescribing the form of the Register of Adult Workers, the manner in which it shall be maintained and the period for which it shall be preserved.

<sup>1</sup> Subs. by the A.O. 1907 for "L. G.".

*Chapter IV.—Restrictions on working Hours of Adults.*

42. No adult worker shall be allowed to work otherwise than in accordance with the Notice of Periods for Work for Adults displayed under sub-section(1) of section 39 and the entries made beforehand against his name in the Register of Adult Workers maintained under section 41.

Hours of work to correspond with Notice under section 39 and Register under section 41.

43. (1) The <sup>1</sup>[Provincial Government] may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory, and the provisions of this Chapter, <sup>2</sup>[other than the provisions of clause (b) of sub-section (1) of section 45 and of the provisos to that sub-section], shall not apply to any person so defined.

Power to make rules exempting from restrictions.

(2) The <sup>1</sup>[Provincial Government] may make rules for adult workers providing for the exemption, to such extent and subject to such conditions as may be prescribed in such rules,—

- (a) of workers engaged on urgent repairs—from the provisions of sections 34, 35, 36, 37 and 38;
- (b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory—from the provisions of sections 34, 36, 37 and 38;
- (c) of workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required under section 37—from the provisions of sections 34, 36, 37 and 38 ;
- (d) of workers engaged in any work which for technical reasons must be carried on continuously throughout the day—from the provisions of sections 34, 35, 36, 37 and 38;
- (e) of workers engaged in making or supplying articles of prime necessity which must be made or supplied every day—from the provisions of section 35;
- (f) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons—from the provisions of section 35;
- (g) of workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces—from the provisions of section 37 and 38 ; and
- (h) of workers engaged in engine-rooms or boiler-houses—from the provisions of section 35.

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption from the provisions of sections 39 and 40 which the <sup>1</sup>[Provincial Government] may deem to be expedient, subject to such conditions as it may impose.

(4) In making rules under this section the <sup>1</sup>[Provincial Government] shall prescribe the maximum limits for the weekly hours of work for all

<sup>1</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>2</sup> Ins. by s. 2 of the Factories (Amendment) Act, 1935 (11 of 1935).

*Chapter IV.—Restrictions on working Hours of Adults.*

classes of workers, and any exemption given, other than an exemption under clause (a) of sub-section (2), shall be subject to such limits.

(5) Rules made under this section shall remain in force for not more than three years.

**Power to  
make orders  
exempting  
from restri-  
ctions-**

44. (1) Where the <sup>1</sup>[Provincial Government] is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult workers in any factory or class of factories should be fixed beforehand, it may, by written order, relax or modify the provisions of sections 39 and 40 in respect of such workers to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The <sup>1</sup>[Provincial Government], or subject to the control of the <sup>1</sup>[Provincial Government] the Chief Inspector, may, by written order, exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory, or group or class of factories, from any or all of the provisions of sections 34, 35, 36, 37, 38, 39 and 40, on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.

(3) Any exemption given under sub-section (2) in respect of weekly hours of work shall be subject to the maximum limits prescribed under sub-section (4) of section 43.

<sup>2</sup>(4) An order under sub-section (2) shall remain in force for such period, not exceeding two months from the date on which notice thereof is given to the manager of the factory, as may be specified in the order:

Provided that if in the opinion of the Provincial Government the public interest so requires, the Provincial Government may from time to time, by notification in the official Gazette, extend the operation of any such order for such period, not exceeding six months at any one time, as may be specified in the notification.]

**Further  
restrictions  
on the  
employ-  
ment of  
women,**

45. (1) The provisions of this Chapter shall, in their application to women workers in factories, be supplemented by the following further restrictions, namely:—

(a) no exemption from the provisions of section 36 may be granted in respect of any woman; and

(b) no woman shall be allowed to work in a factory except between 6 A.M. and 7 P.M. :

Provided that the <sup>1</sup>[Provincial Government] may, by notification in the <sup>3</sup>[official Gazette], in respect of any class or classes of factories and for the whole year or any part of it, vary the limits laid down in clause (b) to any span of <sup>4</sup>[ten and a half hours, or where the factory is a seasonal one, of eleven and a half hours], between 5 A.M. and 7-30 P.M.

<sup>1</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>2</sup> Subs. by the Factories (Amendment) Act, 1946 (10 of 1946), s. 5, for the original sub-section.

<sup>3</sup> Subs. by the A.O. 1937 for "local official Gazette".

<sup>4</sup> Subs. by s. 6 of Act 10 of 1946 for "thirteen hours".

*Chapter IV.—Restrictions on working Hours of Adults.*

Provided further that, in respect of any seasonal factory or class of seasonal factories in a specified area, the <sup>1</sup>[Provincial Government] may make rules imposing a further restriction by defining the period or periods of the day within which women may be allowed to work, such that the period or periods so defined shall lie within the span fixed by clause (b) or under the above proviso and shall not be less than ten hours in the aggregate.

(2) The <sup>1</sup>[Provincial Government] may make rules providing for the exemption from the above restrictions, to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories where the employment of women beyond the said hours is necessary to prevent damage to or deterioration in any raw material.

(3) Rules made under sub-section (2) shall remain in force for not more than three years.

46. Where a worker works on a shift which extends over midnight, the ensuing day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted towards the previous day :

**Special provision for night shifts.**

Provided that the <sup>1</sup>[Provincial Government] may, by order in writing, direct that in the case of any specified factory or any specified class of workers therein the ensuing day shall be deemed to be the period of twenty-four hours beginning when such shift begins and that the hours worked before midnight shall be counted towards the ensuing day.

47. <sup>2</sup>[(1) Where a worker—

(a) in a non-seasonal factory works for more than nine hours in any day or for more than forty-eight hours in any week, or

**Extra pay for over-time.**

(b) in a seasonal factory works for more than nine hours in any day or for more than fifty hours in any week.—  
he shall be entitled in respect of the overtime worked to pay at the rate of twice his ordinary rate of pay.]

2\*

\*

\*

\*

(3) Where any workers are paid on a piece rate basis, the <sup>1</sup>[Provincial Government] in consultation with the industry concerned may for the purposes of this section fix time rates as nearly as possible equivalent to the average rate of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of pay of those workers for the purposes of this section.

(4) The <sup>1</sup>[Provincial Government] may prescribe the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

48. No adult worker shall be allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

**Restriction on double employment.**

<sup>1</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>2</sup> Subs. by s. 7 of the Factories (Amendment) Act, 1946 (10 of 1946) for the original sub-sections (1) and (2).

*Chapter IV.—Restrictions on Working Hours of Adults.—Chapter IV-A—Holidays with Pay.*

**Control of  
Overlapping  
shifts.**

49. The <sup>1</sup>[Provincial Government] may make rules providing that in any specified class or classes of factories work shall not be carried on by a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time save with the permission of the <sup>1</sup>[Provincial Government] and subject to such conditions as it may impose, either generally or in the case of any particular factory.

<sup>2</sup>[CHAPTER IV-A.—HOLIDAYS WITH PAY.]

**Application  
of Chapter.**

49A. (1) The provisions of this Chapter shall not apply to a seasonal factory.

(2) The provisions of this Chapter shall not operate to the prejudice of any rights to which a worker may be entitled under any other enactment, or under the terms of any award, agreement or contract of service.

**Annual  
holidays.**

49B (1) Every worker who has completed a period of twelve months continuous service in a factory shall be allowed, during the subsequent period of twelve months, holidays for a period of ten or, if a child, fourteen consecutive days, inclusive of the day or days, if any, on which he is entitled to a holiday under sub-section (1) of section 35.

(2) If a worker fails in any one such period of twelve months to take the whole of the holidays allowed to him under sub-section (1), any holidays not taken by him shall be added to the holidays to be allowed to him under sub-section (1) in the succeeding period of twelve months, so however that the total number of days holidays which may be carried forward to a succeeding period shall not exceed ten or, in the case of a child, fourteen.

(3) If a worker entitled to holidays under sub-section (1) is discharged by his employer before he has been allowed the holidays, or if, having applied for and having been refused the holidays, he quits his employment before he has been allowed the holidays, the employer shall pay him the amount payable under section 49C in respect of the holidays.

*Explanation.*—A worker shall be deemed to have completed a period of twelve months continuous service in a factory notwithstanding any interruption in service during those twelve months brought about by sickness, accident or authorised leave not exceeding ninety days in the aggregate for all three, or by a lock-out, or by a strike which is not an illegal strike, or by intermittent periods of involuntary unemployment not exceeding thirty days in the aggregate ; and authorised leave shall be deemed not to include any weekly holiday allowed under section 35 which occurs at the beginning or end of an interruption brought about by the leave.

**Pay during  
annual  
holidays.**

49C Without prejudice to the conditions governing the day or days, if any, on which the worker is entitled to a holiday under sub-section (1) of section 35, the worker shall, for the remaining days of the holidays al-

<sup>1</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>2</sup> This Chapter was inserted by s. 3 of the Factories (Amendment) Act, 1945 (3 of 1945), (with effect from 1-1-46).

*Chapter IV-A.—Holidays with Pay.—Chapter V.—Special Provisions for Adolescents and Children.*

lowed to him under section 49B, be paid at a rate equivalent to the daily average of his wages as defined in the Payment of Wages Act, 1936 for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

IV of 1936

**49D.** A worker who has been allowed holidays under section 49B shall, before his holidays begin, be paid half the total pay due for the period of holidays.

**Payment when to be made,**

**49E.** Any Inspector may institute proceedings on behalf of any worker, to recover any sum required to be paid under this Chapter by an employer which the employer has not paid.

**Power of Inspector to act for worker.**

**49F (1)** The Provincial Government may make rules to carry into effect the provisions of this Chapter

**Power to make rules,**

(2) Without prejudice to the generality of the foregoing power rules may be made under this section prescribing the keeping by employers of registers showing such particulars as may be prescribed and requiring such registers to be made available for examination by Inspectors

(3) The Central Government may give directions to a Province as to the carrying into execution of the provisions of this section.

**19G.** Where the Provincial Government is satisfied that the leave rules applicable to workers in a factory provide benefits substantially similar to those for which this Chapter makes provision, it may, by written order, exempt the factory from the provisions of this Chapter.

**Exemption of factories from provisions of this Charter,**

**CHAPTER V.—SPECIAL PROVISIONS FOR ADOLESCENTS AND CHILDREN.**

**50.** No child who has not completed his twelfth year shall be allowed to work in any factory.

**Prohibition of employment of young children,**

**51.** No child who has completed his twelfth year and no adolescent shall be allowed to work in any factory unless—

(a) a certificate of fitness granted to him under section 52 is in the custody of the manager of the factory, and

(b) he carries while he is at work a token giving a reference to such certificate.

**Non-adult workers to carry tokens giving reference to certificates of fitness.**

**52. (1)** A certifying surgeon shall, on the application of any young person who wishes to work in a factory, or, of the parent or guardian of such person, or of the manager of the factory in which such person wishes to work, examine such person and ascertain his fitness for such work.

**Certificates of fitness.**

(2) The certifying surgeon, after examination, may grant to such person, in the prescribed form,—

(a) a certificate of fitness to work in a factory as a child, if he is satisfied that such person has completed his twelfth year, that he has attained the prescribed physical standards (if any), and that he is fit for such work ; or

(b) a certificate of fitness to work in a factory as an adult, if he is satisfied that such person has completed his fifteenth year and is fit for a full day's work in a factory.



*Chapter V.—Special Provisions for Adolescents and Children.*

(3) A certifying surgeon may revoke any certificate granted under sub-section (2) if, in his opinion, the holder of it is no longer fit to work in the capacity stated therein in a factory.

(4) Where a certifying surgeon or a practitioner authorised under sub-section (2) of section 12 refuses to grant a certificate or a certificate of the kind requested, or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate, state his reasons in writing for so doing.

**Effect of certificate granted to adolescent.**

53. (1) An adolescent who has been granted a certificate of fitness to work in a factory as an adult, under clause (b) of sub-section (2) of section 52, and who, while at work in a factory, carries a token giving reference to the certificate, shall be deemed to be an adult for all the purposes of Chapter IV.

(2) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under sub-section (2) of section 52, shall, notwithstanding his age, be deemed to be a child for the purposes of this Act.

**Restrictions on the working hours of a child.**

54. (1) No child shall be allowed to work in a factory for more than five hours in any day.

(2) The hours of work of a child shall be so arranged that they shall not spread over more than seven-and-a-half hours in any day.

(3) No child shall be allowed to work in a factory except between 6 A.M. and 7 P.M.:

Provided that the <sup>1</sup>[Provincial Government] may, by notification in the <sup>2</sup>[official Gazette], in respect of any class or classes of factories and for the whole year or any part of it, vary these limits to any span of thirteen hours between 5 A.M. and 7.30 P.M.

(4) The provisions of section 35 shall apply also to child workers, but no exemption from the provisions of that section may be granted in respect of any child.

(5) No child shall be allowed to work in any factory on any day on which he has already been working in another factory.

**Notice of Periods for Work for Children.**

55. (1) There shall be displayed and correctly maintained in every factory, in accordance with the provisions of sub-section (2) of section 76, a Notice of Periods for Work for Children, showing clearly the periods within which children may be required to work.

(2) The periods shown in the Notice required by sub-section (1) shall be fixed beforehand in accordance with the method laid down for adults in section 39 and shall be such that children working for those periods would not be working in contravention of section 54.

(3) The provisions of section 40 shall apply also to the Notice of Periods for Work for Children.

<sup>1</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>2</sup> Subs. by the A.O. 1937 for "local official Gazette".

*Chapter V.—Special Provisions for Adolescents and Children.*

(4) The <sup>1</sup>[Provincial Government] may, make rules prescribing forms for the Notice of Periods for Work for Children and the manner in which it shall be maintained.

56. (1) The manager of every factory in which children are employed shall maintain a Register of Child Workers showing—

Register  
of Child  
Workers.

- (a) the name of each child worker in the factory,
- (b) the nature of his work,
- (c) the group, if any, in which he is included,
- (d) where his group works on shifts, the relay to which he is allotted,
- (e) the number of his certificate of fitness granted under section 52, and
- (f) such other particulars as may be prescribed.

(2) The <sup>1</sup>[Provincial Government] may make rules prescribing the form of the Register of Child Workers, the manner in which it shall be maintained and the period for which it shall be preserved.

57. No child shall be allowed to work otherwise than in accordance with the Notice of Periods for Work for Children displayed under sub-section (1) of section 55 and the entries made beforehand against his name in the Register of Child workers maintained under sub-section (1) of section 56.

Hours of  
work to  
correspond  
with Notice  
and Register.

58. Where an Inspector is of opinion—

(a) that any person working in a factory without a certificate of fitness is a child or an adolescent, or

(b) that a child or adolescent working in a factory with a certificate is no longer fit to work in the capacity stated therein,

Power to  
require  
medical  
examination,

he may serve on the manager of the factory a notice requiring that such person, or that such child or adolescent, as the case may be, shall be examined by a certifying surgeon or by a practitioner authorised under sub-section (2) of section 12, and such person, child or adolescent shall not, if the Inspector so directs, be allowed to work in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be.

59. The <sup>1</sup>[Provincial Government] may make rules—

(a) prescribing the forms of certificates of fitness to be granted under section 52, providing for the grant of duplicates in the event of loss of the original certificates, and fixing the fees which may be charged for such certificates and such duplicates ;

(b) prescribing the physical standards to be attained by children and adolescents ;

(c) regulating the procedure of certifying surgeons under this Chapter, and specifying other duties, which they may be required to perform in connection with the employment of children and adolescents in factories ; and

(d) providing for any other matter which may be expedient in order to give effect to the provisions of this Chapter.

Power to  
make rules.

<sup>1</sup> Subs. by the A.O. 1937 for "L. G.".

## Chapter V-A.—Small Factories.—Chapter VI.—Penalties and Procedure.

## CHAPTER V-A.—SMALL FACTORIES.

Small  
Factories.

**59A.** (1) In this Act, unless there is anything repugnant in the subject or context, "small factory" means any premises including the precincts thereof whereon ten or more but less than twenty workers are working or were working on any day of the preceding six months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, but does not include a mine subject to the operation of the Indian Mines Act, 1923: IV of 1

Provided that the Provincial Government may, by notification in the official Gazette, declare any premises to be a small factory, notwithstanding that less than ten workers are working thereon, if such premises would otherwise be a small factory.

(2) For the purposes of this Chapter an adolescent holding a certificate granted under this Act to work as an adult shall be deemed to be an adult.

Certain  
provisions  
of this Act  
to apply to  
small facto-  
ries where-  
in child  
labour  
is employed

**59B.** (1) All the provisions of this Act, except clause (j) of section 2, sections 4, 5, 6 and 7, sub-sections (1) and (1) of section 14, sections 15, 21, 22 and 25, sub-sections (1), (2) and (3) of section 33 and Chapter IV shall apply to, and in relation to, all small factories wherein any worker who is not, or is not deemed to be, an adult is employed; and in the provisions hereby made so applicable every reference to a factory shall be deemed to include, so far as may be, a reference to a small factory.

(2) The aforesaid provisions shall cease to apply to a small factory on the expiry of six months from the receipt by the Inspector of a notice in writing from the occupier that he has ceased to employ therein any worker who is not, or is not deemed to be, an adult, unless any such worker is employed therein on any day of the said six months:

Provided that if any such worker is thereafter employed in the small factory, the said provisions of this Act shall again apply thereto.

Certain  
other provi-  
sions of law  
not barred.

**59C.** The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938. XXVI of 1938

## CHAPTER VI.—PENALTIES AND PROCEDURE.

**60.** If in any factory—

Penalty for  
contraven-  
tions of  
Act and  
rules.

- (a) there is any contravention—
  - (i) of any of the provisions of sections 13 to 29 inclusive, or
  - (ii) of any order made under any of the said sections, or
  - (iii) of any of the said sections read with rules made in pursuance thereof under clause (a) of section 32, or
  - (iv) of any rule made under any of the said sections or under clause (b), clause (c), or clause (g) of section 32 or section 33, or

<sup>1</sup> This Chapter was inserted by s. 2 of the Factories (Amendment) Act, 1940 (17 of 1940).

*Chapter VI.—Penalties and Procedure.*

(v) of any condition imposed under sub-section (3) of section 31, or

(b) any person is allowed to work in contravention—

(i) of any of the provisions of sections 34 to 38 inclusive, 42, 45 and 48, or

(ii) of any rule made under any of the said sections, or under section 48, or

(iii) of any condition attached to any exemption granted under section 43 or section 44 or section 45 or to any permission granted under section 38 or section 49, or

(c) there is any contravention of any of the provisions of sections 39 to 41 inclusive or of any rule made under section 39, section 41 or section 47, or of any condition attached to any exemption granted under section 41 or to any modification or relaxation made under section 44, or

(d) any person is not paid any extra pay to which he is entitled under the provisions of section 47, or

(e) any adolescent or child is allowed to work in contravention of any of the provisions of sections 50, 51, 54, 55, 57 and 58, or

(f) there is any contravention of section 55 or section 56 or of any rules made under either of these sections, or under clause (d) of section 55, or

(g) there is any contravention of section 49B, 49C, or 49D, or of any rule made under section 49F],

the manager and occupier of the factory shall each be punishable with fine which may extend to five hundred rupees :

Provided that if both the manager and the occupier are convicted, the aggregate of the fines inflicted in respect of the same contravention shall not exceed this amount.

61. If any person who has been convicted of any offence punishable under clauses (b) to <sup>2</sup>[(g)] inclusive of section 60 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on the second conviction with fine which may extend to seven hundred and fifty rupees and shall not be less than one hundred rupees, and if he is again so guilty, shall be punishable on the third or any subsequent conviction with fine which may extend to one thousand rupees and shall not be less than two hundred and fifty rupees :

**Enhanced  
penalty in  
certain  
cases after  
previous  
conviction**

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished :

Provided further that the Court, if it is satisfied that there are exceptional circumstances warranting such a course, may, after recording its reasons in writing, impose a smaller fine than is required by this section.

62. An occupier of a factory who fails to give any notice required by sub-section (1) or sub-section (2) of section 9 shall be punishable with fine which may extend to five hundred rupees.

**Penalty for  
failure to  
give notice  
of commence-  
ment of  
work or of  
change of  
manager.**

<sup>1</sup> Ins. by s. 4 of the Factories (Amendment) Act, 1945 (3 of 1945), (with effect from 1-1-46).

<sup>2</sup> Subs. by s. 5, *ibid* for "(f)".

## Chapter VI.—Penalties and Procedure.

**Penalty for obstructing Inspector.**

63. Whoever wilfully obstructs an Inspector in the exercise of any power under section 11, or fails to produce on demand by an Inspector any registers or other documents in his custody kept in pursuance of this Act or of any of the rules made thereunder, or conceals or prevents any worker in a factory from appearing before or being examined by an Inspector, shall be punishable with fine which may extend to five hundred rupees.

**Penalty for failure to give notice of accidents.**

64. A manager of a factory who fails to give notice of an accident as required under section 30 shall be punishable with fine which may extend to five hundred rupees.

**Penalty for failure to make returns.**

65. If in respect of any factory any return is not furnished as required under section 77, the manager and the occupier of the factory shall each be liable to fine which may extend to five hundred rupees :

Provided that if both the manager and the occupier are convicted, the aggregate of the fines inflicted shall not exceed this amount.

**Penalty for smoking or using naked light in vicinity of inflammable material.**

66. Whoever smokes, or uses a naked light or causes or permits any such light to be used in the vicinity of any inflammable material in a factory shall be punishable with fine which may extend to five hundred rupees.

This provision does not extend to the use, in accordance with such precautions as may be prescribed, of a naked light in the course of a manufacturing process.

**Exception**

**Penalty for using false certificate.**

67. Whoever knowingly uses or attempts to use, as a certificate granted to himself under section 52, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person shall be punishable with fine which may extend to twenty rupees.

**Penalty on guardian for permitting double employment of a child.**

68. If a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody, or of control over him, or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to twenty rupees, unless it appears to the Court that the child so worked without the consent, connivance or wilful default of such parent, guardian or person.

**Penalty for failure to display certain notices.**

69. A manager of a factory who fails to display the notice required under sub-section (1) of section 76 or by any rule made under this Act, or to display or maintain any such notice as required by sub-section (2) of that section, shall be punishable with fine which may extend to five hundred rupees.

**Determination of "occupier" for purposes of this Chapter.**

70. (1) Where the occupier of a factory is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable ;

*Chapter VI.—Penalties and Procedure.*

Provided that the firm or association may give notice to the Inspector that it has nominated one of its number who is resident in <sup>1</sup>[the Provinces] to be the occupier of the factory for the purposes of this Chapter, and such individual shall so long as he is so resident be deemed to be the occupier for the purposes of this Chapter until further notice cancelling his nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the occupier of a factory is a company, any one of the directors thereof, or, in the case of a private company, any one of the shareholders thereof, may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable :

Provided that the company may give notice to the Inspector that it has nominated a director, or, in the case of a private company, a shareholder, who is resident in either case in <sup>1</sup>[the Provinces], to be the occupier of the factory for the purposes of this Chapter, and such director or shareholder shall so long as he is so resident be deemed to be the occupier of the factory for the purposes of this Chapter until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

71. (1) Where the occupier or manager of a factory is charged with an offence against this Act, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge ; and if, after the commission of the offence has been proved, the occupier or manager of the factory, proves to the satisfaction of the Court—

**Exemption of occupier or manager from liability in certain cases.**

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like fine as if he were the occupier or manager, and the occupier or manager shall be discharged from any liability under this Act.

(2) When it is made to appear to the satisfaction of the Inspector at any time prior to the institution of the proceedings—

(a) that the occupier or manager of the factory has used all due diligence to enforce the execution of this Act, and

(b) by what person the offence has been committed, and

(c) that it has been committed without the knowledge, consent or connivance of the occupier or manager, and in contravention of his orders, the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or manager of the factory, and such person shall be liable to the like fine as if he were the occupier or manager.

72. If a child over the age of six years is found inside any part of a factory in which children are working he shall, until the contrary is proved, be deemed to be working in the factory.

**Presumption as to employment.**

<sup>1</sup> Subs. by the A.O. 1948 for "British India".

## Chapter VI—Penalties and Procedure—Chapter VII—Supplemental

**Evidence as to age.**

73 (1) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, the burden shall be on the accused to prove that such person is not under or over such age.

(2) A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under or over the age set forth in such declaration shall for the purposes of this Act be admissible as evidence of the age of that worker.

**Cognizance of offences.**

74 (1) No prosecution under this Act except a prosecution under section 66 shall be instituted except by or with the previous sanction of the Inspector.

(2) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the first class shall try any offence against this Act or any rule or order made thereunder other than an offence under section 66 or section 67.

**Limitation of prosecutions.**

75 No Court shall take cognizance of any offence under this Act or any rule or order thereunder other than an offence under section 62 or section 64, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

Provided that when the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within twelve months of the date on which the offence is alleged to have been committed.

## CHAPTER VII—SUPPLEMENTAL

**Display of factory notices.**

76 (1) In addition to the notices required to be displayed in any factory by this Act or the rules made thereunder, there shall be displayed in every factory a notice containing such abstracts of this Act and of the rules made thereunder, in English and in the vernacular of the majority of the workers as the <sup>1</sup>[Provincial Government] may prescribe.

(2) All notices required to be displayed in a factory shall be displayed at some conspicuous place at or near the main entrance to the factory, and shall be maintained in a clean and legible condition.

**Power of Provincial Governments to make rules.**

77 The <sup>2</sup>[Provincial Government] may make rules requiring occupiers or managers of factories to submit such returns, occasional or periodical, as may in <sup>3</sup>[its] opinion be required for the purposes of this Act.

<sup>1</sup> Subs. by the A.O. 1937 for "L. G.".

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>3</sup> Subs. by the A.O. 1937 for "his".

Chapter VII. --Supplemental.

*Assam Criminal Law Amendment  
(Supplementary).*

78. [Control of rules made by Local Government] Rep. by the A. O. 1937.

79. (1) All rules made under this Act shall be subject to the condition of previous publication, and the date to be specified under clause (2) of section 23 of the General Clause Act, 1897. (X of 1897) shall not be less than three months from the date on which the draft of the proposed rules was published.

Publication of rules.

(2) All such rules shall be published in the Official Gazette and shall, unless some later date is appointed, come into force on the date of such publication.

80. This Act shall apply to factories belonging to the Crown

Application to Crown factories.

81. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Protection to persons acting under this Act.

82. [Repeal and Savings] Repealed by s. 3 and Second Schedule of the Repealing and Amending Act, 1937 (20 of 1937).

(THE SCHEDULE).

[Enactments Repealed]. Repealed by s. 3 and Second Schedule of the Repealing and Amending Act, 1937 (20 of 1937).

THE ASSAM CRIMINAL LAW AMENDMENT  
(SUPPLEMENTARY) ACT, 1934.

Act No. XXVII of 1934<sup>1</sup>

[25th August, 1934.]

An Act to supplement the Assam Criminal Law Amendment Act, 1934.

WHEREAS it is expedient to supplement the Assam Criminal Law Amendment Act, 1934; It is hereby enacted as follows:—

Assam III of 1934.

1. This Act may be called the Assam Criminal Law Amendment (Supplementary) Act, 1934.

Short title.

<sup>1</sup> The words "the Gazette of India or" rep. by the A.O. 1937.

<sup>2</sup> Subs. by the A. O. 1937 for "local official Gazette".

<sup>3</sup> The words "as the case may be" rep. by the A. O. 1937

<sup>4</sup> For Statement of Objects and Reasons, see Gazette of India, 1943, Pt. V, p. 180



**Appeals &  
confirmations.**

2. (1) Any person convicted on a trial held by Commissioners under the Assam Criminal Law Amendment Act, 1934, may appeal to the High Court of Judicature at Fort William in Bengal, and such appeal shall be disposed of by the said High Court in the manner provided in Chapter XXXI of the Code of Criminal Procedure, 1898.

**Assam III  
of 1934.**

**V of 1898.**

(2) When the said Commissioners pass a sentence of death, the record of the proceedings before them shall be submitted to the said High Court, and the sentence shall not be executed unless it is confirmed by the High Court which shall exercise in respect of such proceedings all the powers conferred on the High Court by Chapter XXVII of the Code of Criminal Procedure, 1898.

**V of 1898.**

**Bar of  
certain legal  
proceedings.**

3. The powers conferred by section 491 of the Code of Criminal Procedure, 1898, shall not be exercised in respect of any person arrested, committed to or detained in custody under the Assam Criminal Law Amendment Act, 1934.

**V of 1898.**

**Assam III  
of 1934.**

**Retrospec-  
tive effect of  
sections 2  
and 3.**

4. Section 2 and section 3 shall have effect from the commencement of the Assam Criminal Law Amendment Act, 1934.

**Assam III  
of 1934.**

## THE PETROLEUM ACT, 1934.

### CONTENTS.

#### PRELIMINARY.

#### SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

### CHAPTER I.

#### CONTROL OVER PETROLEUM.

3. Import, transport and storage of petroleum.
4. Rules for the import, transport and storage of petroleum.
5. Production, refining and blending of petroleum.
6. Receptacles of dangerous petroleum to show a warning.
7. No licence needed for small stocks of non-dangerous petroleum not in bulk.
8. No licence needed for small quantities of dangerous petroleum.
9. Exemptions for motor conveyances and stationary engines.
10. No licence needed by railway administration acting as carrier.

## SECTIONS.

11. Exemption of heavy oils.
  12. General power of exemption.
  13. Inspection of places.
- 

## CHAPTER II.

## THE TESTING OF PETROLEUM.

14. Inspection and sampling of petroleum
  15. Standard Test Apparatus.
  16. Certification of other test apparatus.
  17. Testing officers.
  18. Manner of test.
  19. Certificate of testing.
  20. Right to require re-test.
  21. Power to make rules regarding tests.
  22. Special rules for testing viscous or solid forms of petroleum.
- 

## CHAPTER III.

## PENALTIES AND PROCEDURE.

23. General Penalty for offences under this Act.
  24. Confiscation of petroleum and receptacles.
  25. Jurisdiction.
  26. Power of entry and search.
  27. Reports of accidents with petroleum.
  28. Inquiries into serious accidents with petroleum.
- 

## CHAPTER IV.

## SUPPLEMENTAL.

29. Provisions relating to rules.
  30. Power to apply Act to other substances.
  31. Power to limit powers of local authorities over petroleum.
  32. [*Repealed.*]
- 

THE SCHEDULE.—[*Repealed.*]

---

(Preliminary).

Act No. XXX of 1934.<sup>1</sup>

[6th September, 1934.]

**An Act to consolidate and amend the law relating to the import, transport, storage, production, refining and blending of petroleum and other inflammable substances.**

WHEREAS it is expedient to consolidate and amend the law relating to the import, transport, storage, production, refining and blending of petroleum and other inflammable substances ; It is hereby enacted as follows :—

## PRELIMINARY.

**Short title,  
extent and  
commence-  
ment.**

1. (1) This Act may be called the Petroleum Act, 1934.
- (2) It extends<sup>2</sup> to <sup>3</sup>[all the Provinces of India] including <sup>4</sup>\*\*\* the Sonthal Parganas.
- (3) It shall come into force on such date<sup>5</sup> as the <sup>6</sup>[Central Government] may, by notification in the <sup>7</sup>[Official Gazette], appoint.

**Definitions.**

2. In this Act, unless there is anything repugnant in the subject or context,—
  - (a) "petroleum" means any liquid hydrocarbon or mixture of hydrocarbons, and any inflammable mixture (liquid, viscous or solid) containing any liquid hydrocarbon;
  - (b) "dangerous petroleum" means petroleum having its flashing-point below seventy-six degrees Fahrenheit;
  - (c) "flashing-point" of any petroleum means the lowest temperature at which it yields a vapour which will give a momentary flash when ignited, determined in accordance with the provisions of Chapter II and the rules made thereunder;
  - (d) "to transport" petroleum means to move petroleum from one place to another in <sup>8</sup>[the Provinces] and includes moving from one place to another in <sup>8</sup>[the Provinces] by sea or across territory in India which is not part of <sup>4</sup>[the Provinces];
  - (e) "to import" petroleum means to bring it into <sup>8</sup>[the Provinces] by land, sea or air, otherwise than during the course of transport;

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 104 and for Report of Select Committee, see Gazette of India, 1934, Pt. V, pp. 235-236.

<sup>2</sup> This Act has been extended to Berar by the Petroleum (Berar Extension) Act, 1937 (23 of 1937). All rules made and notifications issued under this Act and in force in the Provinces of India at the commencement of Act 23 of 1937 (i.e., the 7th October, 1937) have also been extended to Berar by s. 3 of the latter Act.

<sup>3</sup> Subs. by the A. O. 1948 for "the whole of British India".

<sup>4</sup> The words "British Baluchistan and" rep. by the A.O. 1948.

<sup>5</sup> 30th March, 1937 : see Gazette of India, 1937, Pt. 1, p. 692.

<sup>6</sup> Subs. by the A. O. 1937, for "G. G. in C".

<sup>7</sup> Subs. by the A. O. 1937, for "Gazette of India".

<sup>8</sup> Subs. by the A. O. 1948, for "British India".

*(Preliminary. Chapter I.—Control over Petroleum.)*

- (f) "to store" petroleum means to keep it in any one place, but does not include any detention happening during the ordinary course of transport;
- (g) "motor conveyance" means any vehicle, vessel or aircraft for the conveyance of human beings, animals or goods, by land, water or air, in which petroleum is used to generate the motive power;
- (h) "prescribed" means prescribed by rules made under this Act.

## CHAPTER I.

## CONTROL OVER PETROLEUM.

3. (1) No one shall import, transport or store any petroleum save in accordance with the rules made under section 4.

(2) Save in accordance with the conditions of any licence for the purpose which he may be required to obtain by rules made under section 4, no one shall import any dangerous petroleum, and no one shall transport or store any petroleum.

**Import,  
transport  
and storage  
of petro-  
leum.**

4. The Central Government may make rules<sup>2</sup>—

- (a) prescribing places where petroleum may be imported and prohibiting its import elsewhere;
- (b) regulating the import of petroleum;
- (c) prescribing the periods within which licences for the import of dangerous petroleum shall be applied for, and providing for the disposal, by confiscation or otherwise, of any dangerous petroleum in respect of which a licence has not been applied for within the prescribed period or has been refused and which has not been exported;
- (d) regulating the transport of petroleum;
- (e) specifying the nature and condition of all receptacles and pipelines in which petroleum may be transported;
- (f) regulating the places at which and prescribing the conditions subject to which petroleum may be stored;
- (g) specifying the nature, situation and condition of all receptacles in which petroleum may be stored;
- (h) prescribing the form and conditions of licences for the import of dangerous petroleum, and for the transport or storage of any petroleum, the manner in which applications for such licences shall be made, the authorities which may grant such licences and the fees which may be charged for such licences;
- (i) determining in any class of cases whether a licence for the transport of petroleum shall be obtained by the consignor, consignee or carrier;

**Rules for  
the import,  
transport  
and storage  
of petro-  
leum.**

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C".

<sup>2</sup> See the Petroleum Rules, 1937, published in the Gazette of India, 1937, Pt. 1, pp. 720 to 775.

## (Chapter I.—Control over Petroleum.)

- (j) providing for the granting of combined licences for the import, transport and storage of petroleum, or for any two of such purposes ;
- (k) prescribing the proportion in which any specified poisonous substance may be added to petroleum, and prohibiting the import, transport or storage of petroleum in which the proportion of any specified poisonous substance exceeds the prescribed proportion ; and
- (l) generally, providing for any matter which in <sup>1</sup>[its] opinion is expedient for proper control over the import, transport and storage of petroleum.

Production,  
refining and  
blending of  
petroleum.

5. (1) No one shall produce, refine or blend petroleum save in accordance with the rules made under sub-section (2).

(2) The <sup>2</sup>[Central Government] may make rules<sup>3</sup>—

- (a) prescribing the conditions subject to which petroleum may be produced, refined or blended ; and
- (b) regulating the removal of petroleum from places where it is produced, refined or blended and preventing the storage therein and removal therefrom, except as dangerous petroleum, of any petroleum which has not satisfied the prescribed tests.

4 \*

\*

\*

\*

Receptacles  
of danger-  
ous petro-  
leum to  
show a  
warning.

6. All receptacles containing dangerous petroleum shall have a stamped, embossed, painted or printed warning, either on the receptacle itself or, where that is impracticable, displayed near the receptacle, exhibiting in conspicuous characters the words “ Petrol ” or “ Motor Spirit ”, or an equivalent warning of the dangerous nature of the petroleum :

Provided that this section shall not apply to—

- (a) any securely stoppered glass, stoneware or metal receptacle of less than two gallons capacity containing dangerous petroleum which is not for sale, or
- (b) a tank incorporated in a motor conveyance, or attached to an internal combustion engine, and containing petroleum intended to be used to generate motive power for the motor conveyance or engine, or
- (c) a pipe-line for the transport of petroleum, or
- (d) any tank which is wholly under ground, or
- (e) any class of receptacles which the <sup>2</sup>[Central Government] may, by notification<sup>5</sup> in the <sup>6</sup>[Official Gazette], exempt from the operation of this section.

<sup>1</sup> Subs. by the A. O. 1937, for “his”.

<sup>2</sup> Subs. *ibid*, for “G. G. in C”.

<sup>3</sup> See the Petroleum Rules, 1937, published in the Gazette of India, 1937, Pt. 1 pp. 720 to 775.

<sup>4</sup> Sub-section (3) rep. by the A. O. 1937.

<sup>5</sup> For notification exempting tanks within installations or refineries or at or near oil wells, and receptacles in the possession of His Majesty's forces, see Gazette of India, 1937, Pt. 1, p. 632.

<sup>6</sup> Subs. by the A. O. 1937, for “Gazette of India”.

*(Chapter I.—Control over Petroleum.)*

7. Notwithstanding anything contained in this Chapter, a person need not obtain a licence for the transport or storage of non-dangerous petroleum if the total quantity in his possession at any one place does not exceed five hundred gallons and none of it is contained in a receptacle exceeding two hundred gallons in capacity.

No licence needed for small stocks of non-dangerous petroleum not in bul.

8. (1) Notwithstanding anything contained in this Chapter, a person need not obtain a licence for the import, transport or storage of dangerous petroleum not intended for sale if the total quantity in his possession does not exceed six gallons.

No licence needed for small quantities of dangerous petroleum.

(2) Dangerous petroleum possessed without a licence under this section shall be kept in securely stoppered receptacles of glass, stoneware or metal which shall not in the case of receptacles of glass or stoneware exceed one quart in capacity or in the case of receptacles of metal five gallons in capacity.

9. (1) The owner of a motor conveyance, who complies with requirements of the law for the time being in force relating to the registration and licensing of such conveyance and its driver or pilot and the owner of any stationary internal combustion engine, shall not be required to obtain a licence—

Exemptions for motor conveyances and stationary engines.

(a) for the import, transport or storage of any petroleum contained in any fuel tank incorporated in the conveyance or attached to the internal combustion engine, or

(b) for the transport or storage of dangerous petroleum, not exceeding twenty gallons in quantity in addition to any quantity possessed under clause (a),

provided the petroleum is intended to be used to generate motive power for the motor conveyance or engine.

<sup>1</sup>[Provided further that the total quantity of dangerous petroleum which may be stored without a licence under clause (b) shall not exceed twenty gallons, notwithstanding that such owner may possess other motor conveyances or engines].

(2) The dangerous petroleum transported or stored without a licence under clause (b) <sup>1</sup>[of sub-section (1)] shall be kept as provided in sub-section (2) of section 8, and, if it exceeds six gallons in quantity, shall be stored in an isolated place which does not communicate with any room where any person resides or works or in any room where persons assemble.

10. Notwithstanding anything contained in this Chapter, a railway administration, as defined in section 3 of the Indian Railways Act, 1890, need not obtain any licence for the import or transport of any petroleum in its possession in its capacity as carrier.

No licence needed by railway administration acting as carrier.

11. Nothing in this Chapter shall apply to any petroleum which has its flashing-point not below two hundred degrees Fahrenheit.

Exemption of heavy oils.

IX of 1890.

<sup>1</sup> Ins. by the Petroleum (Amendment) Act. 1940 (25 of 1940), s. 2.

*(Chapter I.—Control over Petroleum.—**Chapter II.—The Testing of Petroleum.***General  
power of  
exemption.**

12. The "Central Government" may, by notification<sup>2</sup> in the "Official Gazette", exempt any petroleum specified in the notification from all or any of the provisions of this Chapter.

**Inspection  
of places.**

13. (1) The "Central Government" may authorise<sup>3</sup> any officer by name or by virtue of office to enter any place where petroleum is being imported, stored, produced, refined or blended, or is under transport, and inspect all receptacles, plant and appliances used in connection with petroleum in order to ascertain if they are in accordance with the provisions of this Chapter and the rules made thereunder.

(2) The "Central Government" may make rules regulating the procedure of officers authorised under this section.

## CHAPTER II

## THE TESTING OF PETROLEUM

**Inspection  
and  
sampling  
of  
petroleum**

14. (1) The "Central Government" may, by notification in the "Official Gazette", authorise<sup>3</sup> any officer by name or by virtue of office to enter any place where petroleum is being imported, transported, stored, produced, refined or blended and to inspect and take samples for testing of any petroleum found therein.

(2) The "Central Government" may make rules<sup>5</sup>—

- (a) regulating the taking of samples of petroleum for testing;
- (b) determining the cases in which payment shall be made for the value of samples taken, and the mode of payment; and
- (c) generally, regulating the procedure of officers exercising powers under this section.

**Standard  
Test  
Apparatus.**

15. (1) A standard apparatus for determining the flashing-point of petroleum shall be deposited with an officer to be appointed in this behalf by the "Central Government", by notification in the "Official Gazette".

(2) Such apparatus shall be engraved with the words "Standard Test Apparatus," and shall be verified and corrected from time to time and replaced when necessary in accordance with rules made under section 21.

(3) The Standard Test Apparatus shall, on payment of the prescribed fee, be open to inspection at all reasonable times by any person wishing to inspect it.

**Certifica-  
tion of  
other test  
apparatus.**

16. (1) The officer appointed under section 15 shall, on payment of the prescribed fee, if any, compare with the Standard Test Apparatus any apparatus for determining the flashing-point of petroleum which may be submitted to him for this purpose.

(2) If any apparatus is found by him to agree with the Standard Test Apparatus within prescribed limits, the officer shall engrave such apparatus with a special number and with the date of the comparison, and shall give

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C".

<sup>2</sup> For instance of such a notification, see Gazette of India, 1937, Pt. 1, p. 692.

<sup>3</sup> Subs. by the A. O. 1937, for "Gazette of India".

<sup>4</sup> For instance of such authorisation, see Gazette of India, 1937, Pt. 1, p. 631.

<sup>5</sup> See the Petroleum Rules, 1937 : *ibid.* pp. 720 to 775.

*(Chapter II. —The Testing of Petroleum.)*

a certificate in respect of it in the prescribed form, certifying that on the said date the apparatus was compared with the Standard Test Apparatus and was found to agree with it within the prescribed limits and specifying any corrections to be made in the results of tests carried out with the apparatus.

(3) A certificate granted under this section shall be valid for such period as may be prescribed.

(4) A certificate granted under this section shall, during the period for which it is valid, be proof, until the contrary is proved, of any matter stated therein.

(5) The officer shall keep a register in the prescribed form of all certificates granted by him under this section.

17. The Central Government may authorise any officer by name or by virtue of office to test petroleum of which samples have been taken under this Act, or which may have been submitted to him for test by any person and to grant certificates of the results of such tests.

**Testing  
officers.**

18. All tests of petroleum made under this Act shall be made with a test apparatus in respect of which there is a valid certificate under section 16. shall have due regard to any correction specified in that certificate, and shall be carried out in accordance with rules made under section 21.

**Manner of  
test.**

19. (1) The testing officer after testing samples of petroleum shall make out a certificate in the prescribed form, stating whether the petroleum is dangerous or non dangerous, and, if the petroleum is non dangerous, the flashing-point of the petroleum.

**Certificate  
of testing.**

(2) The testing officer shall furnish the person concerned, at his request, with a certified copy of the certificate, on payment of the prescribed fee, and such certified copy may be produced in any Court in proof of the contents of the original certificate.

(3) A certificate given under this section shall be admitted as evidence in any proceedings which may be taken under this Act in respect of the petroleum from which the samples were taken, and shall, until the contrary is proved, be conclusive proof that the petroleum is dangerous or non dangerous, as the case may be and, if the petroleum is non dangerous, of its flashing-point.

20. (1) The owner of any petroleum, or his agent, who is dissatisfied with the result of the test of the petroleum may, within seven days from the date on which he received intimation of the result of the test, apply to the officer empowered under section 14 to have fresh samples of the petroleum taken and tested.

**Right to  
require  
re-test.**

(2) On such application and on payment of the prescribed fee, fresh samples of the petroleum shall be taken in the presence of such owner or agent or person deputed by him, and shall be tested in the presence of such owner or agent or person deputed by him.



## (Chapter II.—The Testing of Petroleum.)

(3) If, on such re-test, it appears that the original test was erroneous, the testing officer shall cancel the original certificate granted under section 19, shall make out a fresh certificate, and shall furnish the owner of the petroleum, or his agent, with a certified copy thereof, free of charge.

**Power to  
make rules  
regarding  
tests.**

21. The [Central Government] may make rules<sup>2</sup>—

- (a) for the specification, verification, correction and replacement of the Standard Test Apparatus;
- (b) prescribing fees for the inspection of the Standard Test Apparatus;
- (c) regulating the procedure in comparing a test apparatus with the Standard Test Apparatus;
- (d) prescribing the form of certificate to be given in respect of a test apparatus so compared, and the period for which such certificates shall be valid;
- (e) prescribing the form of the register of such certificates;
- (f) prescribing fees for comparing a test apparatus with the Standard Test Apparatus;
- (g) regulating the procedure of testing officers in carrying out tests of petroleum, providing for the averaging of results where several samples of the same petroleum are tested, and prescribing the variations from standard temperatures which may be allowed;
- (h) prescribing the form of certificates of tests of petroleum and the fees which may be charged therefor;
- (i) providing, where the results of the testing of samples raise a doubt as to the uniformity of the quality of the petroleum in any lot under test, for the division of the lot into sub-lots, and for the selection and testing of samples of each sub-lot and for the averaging of results in accordance with the results of tests of those samples;
- (j) prescribing fees for re-tests under section 20 and providing for their refund where the original test was erroneous; and
- (k) generally, regulating the procedure of all officers performing duties connected with the testing of petroleum, and providing for any matter incidental to such testing.

**Special  
rules for  
testing  
viscous or  
solid forms  
of  
petroleum,**

22. The [Central Government] may also make rules<sup>2</sup> providing specially for testing of any form of petroleum which is viscous or solid or contains sediment or thickening ingredients, and such rules may modify or supplement any of the provisions of this Chapter or of the rules made under section 21 in order to adapt them to the special needs of such tests.

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C".

<sup>2</sup> See the Petroleum Rules, 1937, published in the Gazette of India, 1937, Pt 1, pp. 720 to 775.

## (Chapter III.—Penalties and Procedure.)

## CHAPTER III.

## PENALTIES AND PROCEDURE.

## 23. (1) Whoever—

(a) in contravention of any of the provisions of Chapter I or of any of the rules made thereunder, imports, transports, stores, produces, refines or blends any petroleum, or

(b) contravenes any rule made under section 4 or section 5, or

(c) being the holder of a licence issued under section 4 or a person for the time being placed by the holder of such licence in control or in charge of any place where petroleum is being imported or stored or is under transport, contravenes any condition of such licence or suffers any condition of such licence to be contravened, or

(d) being for the time being in control or in charge of any place where petroleum is being imported, stored, produced, refined or blended or is under transport, refuses or neglects to show to any officer authorised under section 13 and receptacle, plant or appliance used in such place in connection with petroleum, or in any way obstructs or fails to render reasonable assistance to such officer during an inspection, or

(e) being for the time being in control or in charge of any place where petroleum is being imported, transported, stored, produced, refined or blended, refuses or neglects to show to any officer authorised under section 14 any petroleum in such place, or to give him such assistance as he may require for the inspection of such petroleum, or refuses to allow him to take samples of the petroleum, or

(f) being required under section 27, to give information of an accident fails to give such information as so required by that section,

shall be punishable with fine which may extend to five hundred rupees.

(2) If any person having been convicted of an offence punishable under sub-section (1), is again guilty of any offence punishable under that sub-section, he shall be punishable for every such subsequent offence with fine which may extend to two thousand rupees.

24. (1) In any case in which an offence under clause (a) or clause (b) or clause (c) of sub-section (1) of section 23 has been committed, the convicting Magistrate may direct that

(a) the petroleum in respect of which the offence has been committed, or

(b) where the offender is convicted of importing, transporting or storing petroleum exceeding the quantity he is permitted to import, transport or store, as the case may be, the whole of the petroleum in respect of which the offence was committed,

shall, together with the receptacles in which it is contained, be confiscated.

General  
penalty for  
offences  
under this  
Act.

Confiscation  
of petro-  
leum and  
receptacles.

<sup>1</sup> Subs. by the Petroleum (Amendment) Act 1911, c. 3 of 1911, s. 2, for the original clause.

## (Chapter III.—Penalties and Procedure.)

(2) This power may also be exercised by the High Court in the exercise of its appellate or revisional powers.

**Jurisdiction** 25. Offences punishable under this Act shall be triable, in the Presidency-towns by a Presidency Magistrate, and elsewhere by a Magistrate of the first class, or by a Magistrate of the second class who has been specially empowered by the <sup>1</sup>[Central Government] in this behalf.

**Power of entry and search.** 26. (1) The <sup>2</sup>[Central Government] may, by notification in the <sup>3</sup>[Official Gazette], authorise<sup>4</sup> any officer by name or by virtue of office to enter and search any place where he has reason to believe that any petroleum is being imported, transported, stored, produced, refined or blended otherwise than in accordance with the provisions of this Act and the rules made thereunder, and to seize, detain or remove any or all of the petroleum in respect of which in his opinion an offence under this Act has been committed.

(2) The provisions of the Code of Criminal Procedure, 1898, relating to searches shall so far as they are applicable apply to searches by officers authorised under this section. **V of 1898.**

(3) The <sup>2</sup>[Central Government] may make rules regulating the procedure of authorised officers in the exercise of their powers under this section subject, however, to the provisions of sub-section (2).

**Reports of accidents with petroleum.** 27. Where any accident by explosion or fire, which is attended with loss of human life or serious injury to person or property, occurs as the result of the ignition of petroleum or petroleum vapour, or occurs in or near any place where petroleum is kept and under circumstances making it likely that it was the result of such ignition, the person for the time being in charge of the petroleum shall forthwith give information to the nearest Magistrate or to the officer in charge of the nearest police station.

**Inquiries into serious accidents with petroleum.** 28. (1) The inquiry mentioned in section 176 of the Code of Criminal Procedure, 1898 shall <sup>5</sup>unless section 8 of the Coroners Act, 1871, is applicable to the circumstances be held in all cases where any person has been killed by an accident which the Magistrate has reason to believe was the result of the ignition of petroleum or petroleum vapour. **V of 1898. IV of 1871.**

(2) Any Magistrate empowered to hold an inquest may also hold an inquiry under the said section into the cause of any accident which he has reason to believe was the result of the ignition of petroleum or petroleum vapour, if such accident was attended by serious injury to person or property, notwithstanding that no person was killed thereby.

(3) For the purposes of <sup>6</sup>[sub-section (2)] a Commissioner of Police in a Presidency-town \* \* \* shall be deemed to be a Magistrate empowered to hold an inquest.

(4) The result of all inquiries held in pursuance of this section <sup>5</sup>[and of any inquiry held by a coroner in a case to which sub-section (1) refers] shall be submitted as soon as may be to the <sup>1</sup>[Central Government] <sup>5</sup>[the Chief Inspector of Explosives in India] and the Provincial Government].

<sup>1</sup> Subs. by the A. O. 1897, for "L. G."

<sup>2</sup> Subs. *ibid.* for "G. G. in C".

<sup>3</sup> Subs. *ibid.* for "Gazette of India".

<sup>4</sup> For instance of such authorisation, see Gazette of India, 1937, Pt. I, p. 632.

<sup>5</sup> Ins. by the Petroleum (Amendment) Act, 1940 (25 of 1940), s. 3.

<sup>6</sup> Subs., *ibid.* for "this section"

<sup>7</sup> The words "or in Rangoon" rep. by the A. O. 1897.

## (Chapter IV.—Supplemental.)

## CHAPTER IV.

## SUPPLEMENTAL.

29. (1) In making any rules under this Act, the <sup>1</sup>[Central Government] may—

Provisions relating to rules.

(a) provide for any matter ancillary to such rules for which in <sup>2</sup>[its] opinion provision is necessary to protect the public from danger arising from the import, transport, storage, production, refining or blending of petroleum, and

(b) make special provision for the special circumstances of any Province or place.

(2) Every power to make rules conferred by this Act is subject to the condition of previous publication.

(3) All rules made under this Act shall be published in the <sup>3</sup>[Official Gazette] \* \* \*

30. (1) The <sup>1</sup>[Central Government] may, by notification<sup>5</sup> in the <sup>4</sup>[Official Gazette], apply any or all of the provisions of this Act, and of the rules made thereunder with such modifications as <sup>6</sup>[it] may specify, to any dangerously inflammable substance, other than an explosive, and thereupon the provisions so applied shall have effect as if such substance had been included in the definition of petroleum.

Power to apply Act to other substances.

(2) The <sup>1</sup>[Central Government] may make rules providing specially for the testing of any substance to which any of the provisions of this Act have been applied by notification under sub-section (1), and such rules may supplement any of the provisions of Chapter II in order to adapt them to the special needs of such tests.

31. Where any enactment confers powers upon any local authority in respect of the transport or storage of petroleum, the <sup>1</sup>[Central Government] may, by notification in the <sup>3</sup>[Official Gazette],—

Power to limit powers of local authorities over petroleum.

(a) limit the operation of such enactment, or

(b) restrict the exercise of such powers, in any manner <sup>6</sup>[it] deems fit.

32. [Repeals.] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

**THE SCHEDULE.**—[Enactments repealed.] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C."

<sup>2</sup> Subs. *ibid.* for "his".

<sup>3</sup> Subs. *ibid.* for "Gazette of India".

<sup>4</sup> The words "and in the local official Gazette" rep. *ibid.*

<sup>5</sup> For notification extending certain sections of the Act to calcium phosphide, see Gazette of India, 1937, Pt. 1, p. 682.

<sup>6</sup> Subs. by the A. O. 1937, for "he".

# ACT No. XXXII OF 1934<sup>1</sup>.

[8th September, 1934.]

## An Act to consolidate the law relating to customs duties.

**W**HEREAS it is expedient to consolidate the law relating to customs duties on goods imported into or exported from [the Provinces] by sea and to customs duties on goods imported into or exported from [the Provinces] by land. It is hereby enacted as follows:—

Short title,  
extent and  
commence-  
ment,

1. (1) This Act may be called the Indian Tariff Act, 1934.

(2) It extends to <sup>3</sup>[all the Provinces of India]. 4 \* \* \*

(3) It shall come into force on such date<sup>5</sup> as the <sup>6</sup>[Central Government] may, by notification in the <sup>7</sup>[official Gazette], appoint in this behalf.

Duties speci-  
fied in Schedules to be  
levied.

2. (1) There shall be levied and collected in every port to which this Act applies, the duties specified in the First and Second Schedules.

(2) The <sup>6</sup>[Central Government] may, by notification in the <sup>7</sup>[official Gazette] fix, for the purpose of levying the said duties, tariff values of any articles enumerated, either specifically or under general headings, in the said Schedules as chargeable with duty *ad valorem* and may alter any tariff values for the time being in force.

(3) Different tariff values may be fixed for different classes or descriptions of the same article.

(4) Nothing in this Act shall authorise the levy of customs duties on any article carried from one customs port in <sup>2</sup>[the Provinces] to another such port except salt, opium and spirit.

Levy of  
duty where  
standard  
rate and  
preferential  
rate are  
specified.

3. (1) Where in respect of any article a preferential rate of revenue duty is specified in the First Schedule if the article is the produce or manufacture of the United Kingdom or of a British Colony, the duty to be levied and collected shall be at the standard rate unless the article is the produce or manufacture of the United Kingdom or of a British Colony and the article is determined, in accordance with rules made under sub-section (2), to be such produce or manufacture.

(2) The <sup>6</sup>[Central Government] may, by notification in the <sup>7</sup>[official Gazette], make rules—

<sup>1</sup> For the Statement of Objects and Reasons, see Gazette of India, 1934, Pt. V, p. 329.

The Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Subs. by the A. O. 1948 for "British India".

<sup>3</sup> Subs. by the A. O. 1948 for "the whole of British India".

<sup>4</sup> The words "except the Chief Commissioner of Aden" rep. by the A.O. 1937.

<sup>5</sup> 1st January, 1935, see Gazette of India, 1934, Pt. I, p. 1877.

<sup>6</sup> Subs. by the A. O. 1937 for "G. G. in C".

<sup>7</sup> Subs. by the A. O. 1937 for "Gazette of India".

- (a) for determining if any article is the produce or manufacture of the United Kingdom or a British Colony; and
- (b) making provision in cases where at the time of importation proof is not forthcoming where required in accordance with the rules made under clause (a) that any article is the produce or manufacture of the United Kingdom or a British Colony—
- (i) whereby duty may be levied at the standard rate and a refund given of the extra duty paid, if such proof is produced within a prescribed period, and
- (ii) whereby duty may be accepted provisionally at the preferential rate on execution of a bond for the payment of the balance of duty if such proof is not produced within the prescribed period, and for the recovery of any balance due after the expiry of the prescribed period as if such balance were duty short-levied within the meaning of section 39 of the Sea Customs Act, 1878.

VIII of 1878

(3) For the purposes of this section and of the First Schedule, the expression "United Kingdom" means the United Kingdom of Great Britain and Northern Ireland, and the expression "British Colony" includes a British Protectorate and any of the Mandated Territories of Tanganyika, the Cameroons under British Mandate and Togoland under British Mandate.

4. (1) Where, in respect of any article chargeable under the First Schedule with a duty characterised in the third column thereof as protective, the <sup>1</sup>[Central Government] is satisfied, after such inquiry as <sup>2</sup>[it] thinks necessary, that such duty has become ineffective or excessive for the purpose of securing the protection intended to be afforded by it to a similar article manufactured in India, <sup>2</sup>[it] may, by notification in the <sup>3</sup>[official Gazette] increase or reduce such duty to such extent as <sup>2</sup>[it] thinks necessary either generally or in respect of such article when imported from or manufactured in any country or countries specified in the notification:

Power of  
Central Gov-  
ernment to  
alter pr. tes-  
tive duties.

Provided that the duty leviable on any such article shall in no case be less than the duty leviable on a like article of British manufacture.

<sup>4</sup>[(2) For the purpose of giving effect to the provisions of Article 10 of the Trade Agreement between His Majesty's Government in the United Kingdom and the Government of India signed in London on the 20th day of March, 1939, the Central Government may, by notification in the official Gazette, vary from time to time such of the rates of duty set out in Items Nos. 48 (3) and 48 (9) of the First Schedule as are applicable to cotton fabrics of British manufacture].

<sup>1</sup> Subs. by the A. O. 1937 for "G. G. in C".

<sup>2</sup> Subs. by the A. O. 1937 for "he".

<sup>3</sup> Subs. by the A. O. 1937 for "Gazette of India".

<sup>4</sup> Ins. and re-numbered by the Indian Tariff (Third Amendment) Act, 1939, s. 2.

<sup>1</sup>[(3)] The <sup>2</sup>[Central Government] may, by notification in the <sup>3</sup>[official Gazette], prescribe the conditions subject to which articles shall be deemed to be of British manufacture for the purposes of this section and of the First Schedule.

Duties on imports and exports by land.

5. Where a customs duty at any rate prescribed by or under this Act or any other law for the time being in force is leviable on any article when improved into, or on any article when exported from, a port in <sup>4</sup>[the Province], the <sup>2</sup>[Central Government] may, by notification in the <sup>3</sup>[official Gazette] direct that a duty of customs at the like rate shall be leviable on any such article when imported or exported, as the case may be, by land from or to any territory outside <sup>4</sup>[the Provinces], which <sup>5</sup>[it] may, by a like notification, declare to be foreign territory for the purposes of this section.

Duty on salt, opium and spirit, when protected by a certificate.

6. (1) Salt, opium and spirit imported from any port in <sup>4</sup>[the Provinces] and protected by the certificate of any officer empowered in that behalf by the <sup>2</sup>[Central Government] <sup>6</sup>\* \* \*, are chargeable with only the amount, if any, by which the duty leviable thereon under the First Schedule exceeds the duty shown by such certificate to have been already paid in respect thereof.

(2) The amount, if any, paid to the Government as the price of such salt or opium is not duty within the meaning of this section.

(3) Nothing in this section applies to spirit which is exported under bond for excise duty from one customs-port to another customs-port under the provisions of Chapter XIV of the Sea Customs Act, VIII of 1878.

7. [Application of certain provisions as to duties and goods.]  
*Rep. by the Land customs (Amendment) Act, 1937 (3 of 1937), s. 6 and Sch.*

Additional import duty on bounty-fed articles.

8. (1) Where any country, dependency or colony pays or bestows, directly or indirectly, any bounty or grant upon the production therein or the exportation therefrom of any article and the article is chargeable with duty under the provisions of this Act, then, upon the importation of any such article into <sup>4</sup>[the Provinces], whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the <sup>2</sup>[Central Government] may, by notification in the <sup>3</sup>[official Gazette], impose an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

(2) The net amount of any such bounty or grant as aforesaid shall be, from time to time, ascertained, determined and declared by the <sup>2</sup>[Central Government], and the <sup>2</sup>[Central Government] may, by notifi-

<sup>1</sup> Ins. and re-numbered by the Indian Tariff (Third Amendment) Act, 1939. s. 2.

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in C.".

<sup>3</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>4</sup> Subs. by the A.O. 1918 for "British India".

<sup>5</sup> Subs. by the A.O. 1937 for "he".

<sup>6</sup> The words "or the Local Government" rep. by the A.O. 1937.

cation in the <sup>1</sup>[official Gazette], make rules for the identification of such articles and for the assessment and collection of any additional duty imposed upon the importation thereof under sub-section (1).

9. (1) Where the rate of duty or other taxation imposed in any country, dependency or colony upon sugar not produced therein exceeds the rate of duty or other taxation imposed upon sugar produced therein by more than the equivalent of six francs per one hundred kilogrammes in the case of refined sugar or five francs and fifty centimes per one hundred kilogrammes in the case of other sugar, then, upon the importation of any sugar from such country, dependency or colony into <sup>2</sup>[the Provinces], whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the <sup>3</sup>[Central Government] may, by notification in the <sup>4</sup>[official Gazette], impose, in addition to any other duty or taxation imposed under this Act or any other law for the time being in force, a special duty not exceeding one moiety of such excess.

Special im-  
port duty on  
sugar in  
certain  
cases.

(2) The <sup>3</sup>[Central Government] may, from time to time, by general or special order, declare, for the purposes of sub-section (1),—

(a) what articles or substances containing any saccharine matter shall be deemed to be "sugar" and what kinds of sugar shall be deemed to be "refined sugar" or "other sugar" respectively; and

(b) what sums in the currency of <sup>2</sup>[the Provinces] shall be deemed to be the equivalent of "francs" and "centimes", respectively.

(3) The amount of the excess referred to in sub-section (1) shall be from time to time ascertained, determined and declared by the <sup>3</sup>[Central Government], and the <sup>3</sup>[Central Government] may, by notification in the <sup>4</sup>[official Gazette] make rules for the identification of sugar and for the assessment and collection of any special duty imposed upon the importation thereof under sub-section (1).

10. [In contract amount of increased or decreased duty to be added or deducted.]—*Rep. by the Indian Sale of Goods (Amendment) Act, 1940 (41 of 1940) s. 3.*

11. (1) When the duty specified for any article in the First Schedule is characterised as protective in the third column of that Schedule, that duty shall have effect only up to the date, if any, specified in the seventh column of that Schedule.

Duration of  
protective  
duties and  
power of  
Central  
Government  
to modify  
remit certain  
duties.

(2) If, after such inquiry as <sup>4</sup>[it] thinks necessary, the <sup>3</sup>[Central Government] is of opinion that the duty specified in the First Schedule in respect of wheat has become unnecessary or excessive, <sup>4</sup>[it] may, by

<sup>1</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>2</sup> Subs. by the A.O. 1948 for "British India".

<sup>3</sup> Subs. by the A.O. 1937 for "G. G. in C.".

<sup>4</sup> Subs. by the A.O. 1937 for "he."



notification in the <sup>1</sup>[official Gazette], remit such duty or reduce it to such extent as <sup>2</sup>[it] thinks fit.

(3) If, after such inquiry as <sup>2</sup>[it] thinks necessary, the <sup>3</sup>[Central Government] is of opinion that the duty specified in the First Schedule in respect of wheat flour is excessive <sup>2</sup>[it] may, by notification in the <sup>1</sup>[Official Gazette], reduce such duty to such extent as <sup>2</sup>[it] thinks fit, but not so as to make it lower than an *ad valorem* duty of twenty per cent.

Power to  
cancel  
notifications.

12. All notifications published under this Act may be cancelled by the authority publishing the same.

13. [*Repeals.*] *Rep. by the Repealing and Amending Act, 1937 (20 of 1937), s. 3 and Second Sch.*

<sup>1</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>2</sup> Subs. by the A.O. 1937 for "he".

<sup>3</sup> Subs. by the A.O. 1937 for "G. G. in C.".

## **SCHEDULE**

## THE FIRST SCHEDULE.

## IMPORT TARIFF.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	

## SECTION I.

## LIVE ANIMALS AND PRODUCTS OF THE ANIMAL KINGDOM.

	ANIMALS, living, all sorts.	...	Free	...	...	...
2	BACON and HAM, not canned or bottled.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
3	FISH, not otherwise specified.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
3 (1)	FISH, unsalted, dry.	Revenue.	Such rate or rates of duty not exceeding one rupee per Indian maund of 82 2/7 lbs. avoirdupois weight as the 2[Central Government] may, by notification in the 3[Official Gazette], from time to time prescribe, plus 8-1/4 per cent. <i>ad valorem</i> .	...	...	...
3 (2)	FISH, salted, dry.	Revenue.	15 per cent. <i>ad valorem</i> .	...	...	...
3 (3)	FISH, unsalted, dry.	Preferential revenue.	80 per cent. <i>ad valorem</i> .	...	20 per cent. <i>ad valorem</i> .	...
3 (4)	FISHMAWS, including singally and sozille and shark-fins.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
4	BUTTER CHEESE and GHEE.	Revenue.	6[25] per cent. <i>ad valorem</i> .	7 * * *	...	...
4 (1)	MILK, condensed or preserved, including milk cream.	5[Revenue].	6[25] per cent. <i>ad valorem</i> .	...	...	...

<sup>1</sup> Certain amount of additional duties on goods comprised in certain Items of this Sch. had been levied for temporary durations by various Finance Acts. For such duties see now the Indian Finance Act, 1938 (20 of 1948), s. 5 and Sch. I.

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in O."

<sup>3</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>4</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for the original item.

<sup>5</sup> Subs. *ibid*, for "Preferential revenue".

<sup>6</sup> Subs. *ibid*, for "80'".

<sup>7</sup> The words and figures "20 per cent. *ad valorem*", *rep.*, *ibid*.

Item No.	Name of article	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
5	CORAL, unprepared.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
5 (1)	COCKLES and SHELLS.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
5 (2)	IVORY, unmanufactured	Preferential revenue	30 per cent. <i>ad valorem</i> .	...	20 per cent. <i>ad valorem</i> .	...

## SECTION II.

## PRODUCTS OF THE VEGETABLE KINGDOM.

6	PLANTS, living, not otherwise specified.	...	Free	...	...	...
6 (1)	RUBBER STAMPS.	...	Free	...	...	...
7	VEGETABLES, all sorts, fresh, dried, salted or preserved, not otherwise specified.	Preferential revenue.	30 per cent. <i>ad valorem</i> .	...	20 per cent. <i>ad valorem</i> .	...
	FRUITS, all sorts, fresh, <sup>1</sup> or preserved, not otherwise specified	Preferential revenue	30 per cent. <i>ad valorem</i> .	...	20 per cent. <i>ad valorem</i> .	...
8 (1)	CURRANTS	Revenue	Re 14 per cwt.	...	...	...
8 (2)	FRUITS, dried (salted and all other kinds) not otherwise specified.	Preferential revenue	35 per cent. <i>ad valorem</i> .	...	24 per cent. <i>ad valorem</i> .	...
8 (3)	FRUITS, candied and crystallised.	Protective.	80 per cent. <i>ad valorem</i> .	...	...	December 31st, 1948.]
9	COFFEE not otherwise specified.	Preferential revenue.	25 per cent. <i>ad valorem</i> plus one anna per pound.	...	25 per cent. <i>ad valorem</i> .	...
9 (1)	COFFEE, canned or bottled.	Preferential revenue.	30 per cent. <i>ad valorem</i> .	3* * *	20 per cent. <i>ad valorem</i> .	...
9 (2)	TEA	Preferential revenue.	Five annas per pound.	...	Three annas per pound.	...
9 (3)	The following SPICES, whether ground or unground, namely:— Cardamoms, cassia, cinnamon, cloves, nutmegs and pepper.	Preferential revenue.	45 per cent. <i>ad valorem</i> .	...	37½ per cent. <i>ad valorem</i> .	1

<sup>1</sup> The words "dried, salted" rep. by the Indian Tariff (Second Amendment) Act, 1947 (5 of 1948), s. 2.

<sup>2</sup> *Ibid.*

<sup>3</sup> The words and figures "20 per cent. *ad valorem*", rep. by the Indian Tariff (Third Amendment) Act, 1939, s. 3.

<sup>4</sup> Subs. *ibid.* for the original item.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.*	A British Colony.	
9 (4)	The following UN- GROUND SPICES, namely:—					
	Chillies, ginger and mace.	Preferential revenue.	30 per cent. <i>ad</i> <i>valorem</i> .	...	22½ per cent. <i>ad valorem</i> .	...
9 (5)	BETELNUTS	Preferential revenue.	1[Five annas per lb.]	...	2[Four annas and six pies per lb.]	...
9 (6)	VANILLA BEANS	3[Revenue.]	4[25] per cent. <i>ad</i> <i>valorem</i> .	...	5* *	...
10	GRAIN and PULSE, not otherwise spec- ified, including broken grains and pulse, but exclud- ing flour.	...	Free	...	...	...
10(1)	WHEAT.	7[Revenue.]	8[Free]	...	...	9* *]
10	* * *	* * *	* * *	* * *	* * *	* *
11	* * *	* *	* * *	* * *	* *	* *
11	FLOUR not other- wise specified.	Revenue.	25 per cent <i>ad</i> <i>valorem</i> .	...	...	...
11(1)	WHEAT FLOUR.	7[Revenue]	8[Free]	...	...	9* *]
12	* * *	* *	* * *	* * *	* * *	* * *
11 (2)	SAGO FLOUR.	...	Free	...	...	...
11 (3)	13[SAGO, TAPIOCA and TAPIOCA FLOUR.]	Preferential revenue.	30 per cent. <i>ad</i> <i>valorem</i> .	...	20 per cent. <i>ad valorem</i> .	...

1 Subs. by the Indian Finance Act, 1946 (7 of 1946), s. 6 for "45 per cent. *ad valorem*".

2 Subs. *ibid*, for "37½ per cent *ad valorem*".

3 Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue".

4 Subs. *ibid*, for "30".

5 The words and figures "20 per cent. *ad valorem*" rep. *ibid*.

6 Ins. by the Indian Tariff (Amendment) Act, 1939 (I of 1939) (with effect from 8-12-1938).

7 Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2 for "Protective".

8 Subs. *ibid*, for "Re. 1-8 per cwt."

9 The words and figures "March 31st, 1947" rep. *ibid*. The original words were "March 31st 1940". The figures "1940" had been changed into "1941", "1942", "1944", "1946" and "1947" by Acts 22 of 1940, 9 of 1941, 11 of 1942, 13 of 1944 and 16 of 1946, respectively.

10 Original Item No. 10(1) rep. by the Indian Tariff (Second Amendment) Act, 1937 (27 of 1937) (with effect from 1st April, 1937).

11 Item No. 10(2) which had been substituted for the original item by s. 2 of the Indian Tariff (Amendment) Act, 1938 (16 of 1938) (with effect from 31st March, 1938) and amended by Acts 18 of 1939 and 22 of 1940 had been rep. by the Repealing and Amending Act, 1945 (6 of 1945), s. 3 and Sch. II.

12 Original Item No. 11(1) was rep. by Act 27 of 1937, s. 2.

13 Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Sago and Tapioca",

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
11 (4)	STARCH and FARINA	Revenue.	15 per cent. <i>ad valorem</i> .	...	...	...
12	SEEDS, all sorts not otherwise specified.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
12 (1)	OILSEEDS imported into [the Provinces] by sea from the territories of any Prince or Chief in India.	...	Free	...	...	...
12 (2)	OILSEEDS, non-essential, all sorts not otherwise specified, including copra or coconut kernel.	Preferential revenue.	30 per cent <i>ad valorem</i>	...	20 per cent <i>ad valorem</i>	...
12 (3)	RUBBER SLEDS.	...	Free	...	...	...
12 (4)	HOPS	...	Free	...	...	...
12 (5)	FODDER, BRAN and POLLARDS.	Revenue	2½ per cent. <i>ad valorem</i>	...	...	...
13	DYEING and TANNING SUBSTANCES, all sorts not otherwise specified.	Revenue	25 per cent <i>ad valorem</i>	...	...	...
13 (1)	BARKS for tanning.	2 [Revenue]	3 [3 per cent <i>ad valorem</i> .]	...	...	...
13 (2)	CUTCH and GAMBIE, all sorts.	Preferential revenue.	30 per cent <i>ad valorem</i>	...	20 per cent <i>ad valorem</i>	...
13 (3)	GUMS, RESINS and LAC, all sorts not otherwise specified.	Revenue.	25 per cent. <i>ad valorem</i>	...	...	...
13 (4)	GUMS, Arabic, Benjamin (ras and cowrie) and DAMMER (including unrefined batu) and rosin.	Preferential revenue.	30 per cent <i>ad valorem</i>	...	20 per cent. <i>ad valorem</i> .	...
13 (5)	STICK or SEED LAC.	...	Free	...	...	...
13 (6)	OPIMUM	Revenue.	Rs. 30 per seer of 80 tolas or 18-3/4 per cent, <i>ad valorem</i> , which ever is higher.	...	...	...

<sup>1</sup> Subs. by the A.O. 1948 for "British India".

<sup>2</sup> Ins. by the Indian Tariff (Amendment) Act, 1940 (21 of 1940).

<sup>3</sup> Subs. *ibid*, for "Free".

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
13 (7)	CINCHONA BARK.	...	Free	...	...	...
14	CANES AND RATTANS.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...

## SECTION III.

FATTY SUBSTANCES, GREASES, OILS AND PRODUCTS OF THEIR DECOMPOSITION  
PREPARED ALIMENTARY FATS: WAXES OF ANIMAL OR VEGETABLE ORIGIN.

15	All sorts of STEARINE, WAX, GREASE and ANIMAL FAT not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i> .	...	...	...
15 (1)	LARD, not canned or bottled	Revenue	25 per cent. <i>ad valorem</i> .	...	...	...
15 (2)	BUTIRAN	Revenue	25 per cent. <i>ad valorem</i> .	...	3	...
15 (3)	TALLOW	...	Free	...	...	...
15 (4)	FISH OIL, including whale oil not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i> .	4	*	...
15 (5)	Fish oil and whale oil, hardened or hydrogenated.	Revenue.	R. 10 per cwt.	...	...	...
15 (6)	VEGETABLE ESSENTIAL OILS not otherwise specified.	Non-Preferential revenue	35 per cent. <i>ad valorem</i> .	5 <sup>1</sup>	25 per cent. <i>ad valorem</i> .	...
15 (7)	The following VEGETABLE ESSENTIAL OILS, namely, coconut, groundnut and linseed.	Non-Preferential revenue	35 per cent. <i>ad valorem</i> .	...	25 per cent. <i>ad valorem</i> .	...
15 (8)	All sorts of ANIMAL OILS not otherwise specified.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue".

<sup>2</sup> Subs. *ibid.* for "30".

<sup>3</sup> The words and figures "20 per cent", rep. *ibid.*

<sup>4</sup> The words and figures "20 per cent *ad valorem*", rep., *ibid.*

<sup>5</sup> The words and figures "25 per cent *ad valorem*", rep. *ibid.*

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	

## SECTION IV.

## PRODUCTS OF THE FOOD PREPARING INDUSTRIES: BEVERAGES, ALCOHOLIC LIQUORS AND VINEGARS: TOBACCO.

16	Canned or bottled BACON, HAM and LARD.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
16 (1)	FISH, canned.	[Revenue]	2[25] per cent. <i>ad valorem</i> .	3 * *	3i * *	...
16 (2)	ISINGLASS, canned or bottled	Revenue	25 per cent. <i>ad valorem</i>	...	...	...
17	SUGAR, excluding confectionery.	Protective.	The rate at which excise duty is for the time being leviable on sugar, other than <i>khand</i> <sup>5</sup> or palmyra sugar, produced in <sup>5</sup> [the Provinces] <sup>6</sup> [plus R-6 12-0 per cwt]	...	...	March 31st, 7[1949.]
17 (1)	MOLASSES	Revenue	31-1/4 per cent <i>ad valorem</i>	...	...	...
17 (2)	CONFECTIONERY.	[Revenue]	50 per cent <i>ad valorem</i> .	5 * *	...	...
17 (3)	SUGAR CANDY.	Revenue.	R- 10 8 per cwt.	...	...	...
18	COCOA and CHOCOLATE, other than confectionery.	[Protective]	2[25] per cent. <i>ad valorem</i> .	3 * *	...	50[March 31st [1950]]

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 2 for "Preferential revenue".

<sup>2</sup> Subs. *ibid.* for "30".

<sup>3</sup> The words and figure "20 per cent *ad valorem*", *rep. ibid.*

<sup>4</sup> Subs. by s. 3 of the Sugar Industry Protection (Temporary Extension) Act, 1938 (11 of 1938) (with effect from 26-3-1938).

<sup>5</sup> Subs. by the A.O. 1918 for "British India".

<sup>6</sup> Subs. by the Sugar Industry (Protection) Act, 1939 (20 of 1939), s. 3 for "plus Rs. 7 10 per cwt." (with effect from 1-4-1939).

<sup>7</sup> Subs. by the Protective Duties Continuation Act, 1948 (18 of 1948) for "1948". The original figure was "1939". It had been changed into "1941", "1942", "1944", "1946", "1947" and "1948" by Acts 29 of 1939, 8 of 1941, 11 of 1942, 13 of 1944, 16 of 1946 and 25 of 1947 respectively.

<sup>8</sup> The words and figure "10 per cent. *ad valorem*", *rep.* by the Indian Tariff (Third Amendment) Act, 1939, s. 3.

<sup>9</sup> Subs. by s. 2 of the Indian Tariff (Amendment) Act, 1947 (25 of 1947) for "Revenue" which had been subs. for "Preferential revenue" by the Indian Tariff (Third Amendment) Act, 1939, s. 3.

<sup>10</sup> Ins. by s. 2 of Act 25 of 1947.



Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
19	BISCUITS, CAKES, and farinaceous and patent foods, canned or bottled.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
20	VEGETABLE PRODUCT, 1* * pickles, chutnies, sauces, 2[Ketchups] and condiments, canned or bottled.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
20 (1)	FRUIT JUICES, Squashes, Cordials and Syrups— (a) manufactured in a British Colony, (b) not manufactured in a British Colony.	Protective.	27 per cent. <i>ad valorem</i> .	...	...	December 31st, 1948.
		Protective.	40 per cent. <i>ad valorem</i> .	...	...	December 31st, 1948.]
20 (2)	4* * * VEGETABLES, canned or bottled.	Preferential revenue.	30 per cent. <i>ad valorem</i> .	5* * *	20 per cent. <i>ad valorem</i> .	...
20 (3)	FRUITS, canned or bottled— (a) manufactured in a British Colony, (b) not manufactured in a British Colony.	Protective.	40 per cent. <i>ad valorem</i> .	...	...	December 31st, 1948.
		Protective.	60 per cent. <i>ad valorem</i> .	...	...	December 31st, 1948.
20 (4)	JAMS, JELLIES and MARMALADES, canned or bottled.	Protective.	60 per cent. <i>ad valorem</i> .	...	...	December 31st, 1948.]
21	CANNED OR BOTTLED PROVISIONS, not otherwise specified.	7[Revenue.]	8[25] per cent. <i>ad valorem</i> .	5* * *	...	...
21 (1)	PROVISIONS and OILMAN'S STORES AND GROCERIES, all sorts not otherwise specified.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
21 (2)	All sorts of FOOD not otherwise specified.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...

1 The words "jams, jellies" rep. by the Indian Tariff (Second Amendment) Act, 1947 (5 of 1948), s. 2

2 Ins., *ibid*.

3 Subs., *ibid*, for the original Item 20(1) as amended by the Indian Tariff (Third Amendment) Act, 1939.

4 The words "Fruits and" rep. by Act 5 of 1948, s. 2.

5 The words and figures "20 per cent *ad valorem*" rep. by the Indian Tariff (Third Amendment) Act, 1939, s. 3.

6 Items 20(3) and 20(4) ins. by Act 5 of 1948, s. 2.

7 Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3. for "Preferential revenue".

8 Subs., *ibid*, for "30".

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
22	All sorts of DRINK not otherwise specified.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
1*	* * *	* * *	* * *	* * *	* * *	* * *
22 (2)	2[ALE, BEER, PORTER, CIDER and other FERMENTED LIQUORS.]—					
	(a) In barrels or other containers containing 27 oz. or more.	Revenue.	Fifteen annas per Imperial gallon.	...	...	...
	(b) In bottles containing less than 27 oz. but not less than 20 oz.	Revenue.	Two annas and six pies per bottle.	...	...	...
	(c) In bottles containing less than 19½ oz. but not less than 10 oz.	Revenue.	One anna and three pies per bottle.	...	...	...
	(d) In bottles containing less than 6¾ oz. but not less than 5 oz.	Revenue.	Seven and half pies per bottle.	...	...	...
	(e) In other containers.	Revenue.	Rs. 1-4 per Imperial gallon.	...	...	...
22 (3)	WINES, not containing more than 42 per cent. of proof spirit—					
	(a) Champagne and other sparkling wines.	Revenue.	Rs. 18-2 per Imperial gallon.	...	...	...
	(b) Other sorts.	Revenue.	Rs. 7-8 per Imperial gallon.	...	...	...

1 Item 22(1) rep. by the Indian Tariff (Third Amendment) Act, 1939, s. 3.

2 Subs. *ibid.* for "Porter, Cider and other Fermented Liquors except ale and beer",

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
22 (4)	SPIRITS (other than denatured spirit)---					
	(a) Brandy, gin, whisky and other sorts of spirits not otherwise specified, including wines containing more than 42 per cent. of proof spirit.	Revenue.	Rs. 37 8 per Imperial gallon of the strength of London proof.	...	...	...
	(b) Liqueurs, cordials, mixtures and other preparations containing spirit not otherwise specified---					
	(i) entered in such a manner as to indicate that the strength is not to be tested.	Revenue.	Rs. 50 per Imperial gallon.	...	...	...
	(ii) not so entered.	Revenue.	Rs. 37 8 per Imperial gallon of the strength of London proof.	...	...	...
	Provided that—					
	(a) the duty on any article included in this item shall in no case be less than the duty which would be charged if the article were liable to a duty of 25 per cent. <i>ad valorem</i> .					
	(b) where the unit of assessment is the Imperial gallon of the strength of London proof, the duty shall be increased or reduced in proportion as the strength is greater or less than London proof.					

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
22 (5)	SPIRITS—					
	(a) Bitters—					
	(i) entered in such a manner as to indicate that the strength is not to be tested.	Preferential revenue.	Rs. 50 per Imperial gallon.	...	Rs. 45 per Imperial gallon.	...
	(ii) not so entered.	Preferential revenue.	Rs. 57.8 per Imperial gallon of the strength of London proof.	...	Rs. 33.12 per Imperial gallon of the strength of London proof.	...
	(b) Drugs and medicines containing spirit—					
	(i) entered in such a manner as to indicate that the strength is not to be tested.	Preferential revenue.	Rs. 40 per Imperial gallon.	Rs. 36 per Imperial gallon.	Rs. 36 per Imperial gallon.	...
	(ii) not so entered.	Preferential revenue.	Rs. 29 per Imperial gallon of the strength of London proof.	Rs. 26 per Imperial gallon of the strength of London proof.	Rs. 26 per Imperial gallon of the strength of London proof.	...
	(c) Perfumed spirits.	[Revenue.]	Rs. 60 per Imperial gallon 2 <sup>1</sup> or 25 per cent <i>ad valorem</i> whichever is higher.]	3* * *	...	...
	(d) Rum.	Preferential revenue.	Rs. 37.8 per Imperial gallon of the strength of London proof.	...	Rs. 33.12 per Imperial gallon of the strength of London proof.	...

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939 s. 3 for "Preferential revenue".

<sup>2</sup> Ins. by the Indian Tariff (Fourth Amendment) Act, 1939 (29 of 1939), s. 2.

<sup>3</sup> The words and figures "Rs. 52.8 per Imperial gallon" rep. by the Indian Tariff (Third Amendment) Act, 1939, s. 3.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom. *	A British Colony.	
22 (5) contd.	Spirits Contd. Provided that—					
	(a) on any article chargeable under this item with the lower rate of duty, the duty levied shall in no case be less than 20 per cent. <i>ad valorem</i> , and on any article chargeable under this item with the higher rate of duty, the duty levied shall in no case be less than 30 per cent. <i>ad valorem</i> ; (b) where the unit of assessment is the Imperial gallon of the strength of London proof, the duty shall be increased or reduced in proportion as the strength is greater or less than London proof.					
22 (6)	UNMATURED SPIRIT.	Revenue.	9-3/8 per cent. <i>ad valorem</i> .	...	...	...
	VINEGAR in casks.	Revenue.	2-1/2 per cent. <i>ad valorem</i> .	...	...	...
23	OILCAKES.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
24	TOBACCO, manufactured, not otherwise specified.	Revenue.	1[Rs 13 per lb.]	...	...	...

1 Subs. by the Indian Finance Act, 1948 (20 of 1948), s. 4 for "Rs. 8 per lb." which had been substituted for "Rs. 3.12 per lb." by the Indian Finance Act, 1945, s. 5.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
24 (1)	CIGARS . . .	Revenue.	<sup>1</sup> [The rate at which duty is for the time being leviable on articles included in Item No. 87 of this Schedule under this Act read with any other enactment in force, <i>plus</i> <sup>2</sup> [Rs. 12-8].	...	...	...
24 (2)	CIGARETTES . . .	Revenue.	<sup>3</sup> [The rate at which duty is for the time being leviable on articles included in Item No. 87 of this Schedule under this Act read with any other enactment in force, <i>plus</i> <sup>4</sup> [Rs. 31-4 per thousand or Rs. 12-8 per lb.] whichever is higher.	...	...	...
24 (3)	TOBACCO, unmanufactured.	Preferential revenue.	<sup>5</sup> [Rs. 7-8 per lb.]	...	<sup>6</sup> [Rs. 7 per lb.]	...
<b>SECTION V.</b> <b>MINERAL PRODUCTS.</b>						
25	CHINA CLAY . . .	...	Free . . .	...	...	...
25 (1)	SALT, excluding salt exempted under Item No. 25 (2).	Revenue.	The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place.	...	...	...
25 (2)	SALT imported into <sup>7</sup> [the Provinces] and issued, in accordance with rules made with the previous sanction of the <sup>8</sup> [Central Government]	...	Free . . .	...	...	...

<sup>1</sup> Subs. by the Indian Finance Act, 1945, s. 5 for "112½ per cent. *ad valorem*".

<sup>2</sup> Subs. by the Indian Finance Act, 1948 (20 of 1948), s. 4 for "Rs. 7-8".

<sup>3</sup> Subs. by the Indian Finance Act, 1945, s. 5 for "25 per cent. *ad valorem* and in addition either Rs. 8-2 per thousand or Rs. 3-4 per lb., whichever is higher."

<sup>4</sup> Subs. by Act 20 of 1948, s. 4 for "Rs. 18-12 per thousand or Rs. 7-8 per lb."

<sup>5</sup> Subs. by the Indian Finance Act, 1945, s. 5 for "Rs. 3-4 per lb".

<sup>6</sup> Subs. *ibid.* for "Rs. 2-12 per lb."

<sup>7</sup> Subs. by the A.O. 1948 for "British India".

<sup>8</sup> Subs. by the A.O. 1947 for "C. G. in C."

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
25 (2) <i>Contd.</i>	for use in any process of manufacture; also salt imported into the port of Calcutta and issued with the sanction of the <sup>1</sup> [Central Government] to manufacturers of glazed stoneware; also salt imported into any port in the provinces of Bengal and Bihar and Orissa and issued, in accordance with rules made with the previous sanction of the <sup>1</sup> [Central Government] for use in curing fish in those provinces.					
25 (3)	The following BUILDING and ENGINEERING MATERIALS, namely, chalk, lime and clay.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
25 (4)	CEMENT not otherwise specified.	Preferential revenue.	30 per cent. <i>ad valorem</i> .	20 per cent. <i>ad valorem</i> .	...	...
25 (5)	PORTLAND CEMENT excluding white Portland cement.	Revenue.	Rs. 13-12 per ton.	...	...	...]
25 (6)	STONE prepared as for road metal-ling.	...	Free . . .	...	...	...
25 (7)	MARBLE and STONE not otherwise specified.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
26	METALLIC ORES, all sorts except ochres and other pigment ores.	...	Free . . .	...	...	...
27	COAL, COKE and PATENT FUEL.	Revenue.	Ten annas per ton	...	...	...

<sup>1</sup> Subs. by the A.O. 1937 for "Government of Bengal".

<sup>2</sup> Subs. by the A.O. 1937 for "G.G. in C."

<sup>3</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1930, s. 3, for the original item.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
27 (1)	ASPHALT . . .	Preferential revenue.	25 per cent. <i>ad valorem</i> .	...	15 per cent <i>ad valorem</i> .	...
27 (2)	Pitch and Tar.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
27 (3)	All sorts of MINERAL OILS not otherwise specified.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
27 (4)	KEROSENE; a l s o any MINERAL OIL other than kerosene and motor spirit which has its flashing point below one hundred degrees of Fahrenheit's thermometer by Abel's close test.	Revenue	Three annas 1* * per Imperial gallon.	...	...	...
27 (5)	MINERAL OIL, not included in Item No. 27 (4) or Item No. 27 (6) which is suitable for use as an illuminant in wick lamp.	Revenue.	Three annas 1* * per Imperial gallon.	...	...	...
27 (6)	MOTOR SPIRIT.	Revenue.	2[The rate at which excise duty is for the time being leviable on motor spirit.]	...	...	...
27 (7)	MINERAL OIL.— (a) which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer, and is ordinarily used for the batching of jute or other fibre;	Revenue	Rs. 15-10 per ton.	...	...	...

<sup>1</sup> The words "and nine pies" rep. by the Indian Finance Act, 1946 (7 of 1946), s. 6.

<sup>2</sup> Subs. by the Indian Finance Act, 1940 (16 of 1940), s. 5, for "Ten annas per Imperial gallon".



Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
27(7) <i>contd</i>	(b) which has its flashing point at or above one hundred and fifty degrees of Fahrenheit's thermometer, is not suitable for use as an illuminant in wick lamps, and is such as is not ordinarily used except as fuel or for some sanitary or hygienic purposes.	Revenue.	12½ per cent. <i>ad valorem</i> .	...	...	...
27(8)	LUBRICATING OIL, that is, oil such as is not ordinarily used for any other purpose than lubrication, excluding any mineral oil which has its flashing point below two hundred degrees of the Fahrenheit thermometer by Abel's close test.	[Revenue.]	Two annas and 3½ [one pie] per Imperial gallon.	* * *	...	...

## SECTION VI.

CHEMICAL AND PHARMACEUTICAL PRODUCTS; COLOURS AND VARNISHES; PERFUMERY; SOAP; CANDLES AND THE LIKE; GLUES AND GELATINES; EXPLOSIVES; FERTILISERS.

28	CHEMICALS, DRUGS and MEDICINES, all sorts not otherwise specified.	Preferential revenue.	30 per cent. <i>ad valorem</i> .	20 per cent. <i>ad valorem</i> .	20 per cent. <i>ad valorem</i> .	...
28 (1)	BLEACHING PASTE and bleaching powder.	...	Free . . .	...	...	...
28 (2)	COPPERAS, green (ferrous sulphate)	Revenue.	24 per cent. <i>ad valorem</i> .	...	...	...
28 (3)	SULPHUR . . .	...	Free . . .	...	...	...

1 Subs. by the Indian Tariff (Third Amendment) Act, 1930, s. 3 for "Preferential revenue".

2 Subs. *ibid*, for "six pies".

3 The words "Six pies per Imperial gallon" rep. *ibid*.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
128 (4)	SODA ASH, including calcined natural soda and manufactured sesquicarbonates.	Preferential revenue.	25 per cent <i>ad valorem</i> .	...	15 per cent. <i>ad valorem</i> .	...
28 (5)	HEAVY CHEMICALS, the following namely:— Magnesium chloride.	Protective.	2 [Twelve annas per cwt.] or 25 per cent. <i>ad valorem</i> , whichever is higher.	...	...	March 31st, 3[1949.]
28 (6)	The following CHEMICALS, namely:— (a) Alum (aluminium alum), potash alum and soda alum.	Revenue	25 per cent. <i>ad valorem</i> or Re. 1.6 per cwt., whichever is higher.	...	...	...
	(b) Magnesium sulphate or hydrated magnesium sulphate.	Revenue.	25 per cent. <i>ad valorem</i> or Re. 1.4 per cwt., whichever is higher.	...	...	...
128 (7)	The following CHEMICALS, namely, calcium sulphide, cobalt oxide, liquid gold for glass-making, selenium, and uranium oxide.	Revenue	25 per cent <i>ad valorem</i>	...	...	...]
28 (8)	4) The following CHEMICALS, DRUGS and MEDICINES, namely, acetic, carbolic, citric, dichloric, nitric, oxalic, sulphuric, tartaric and other acids, anhydrous ammonia, naphthalene, 5* * po-	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for the original item.

<sup>2</sup> Subs. by the Indian Tariff (Second Amendment) Act, 1939 (18 of 1939), s. 2, for "Re. 1.5 per cwt."

<sup>3</sup> Subs. by the Protective Duties Continuation Act, 1948 (18 of 1948), s. 2, for "1948". The original figure was "1939". It had been changed into "1946", "1947" and "1948" by Acts 18 of 1939, 16 of 1946 and 25 of 1947, respectively.

<sup>4</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, for the original words.

<sup>5</sup> The words "potassium bichromate" rep. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
28 (8) <i>cond.</i>	potassium chlorate, potassium cyanide and other potassium compounds, bicarbonate of soda, borax, 1* * sodium cyanide, sodium silicate, arsenic, calcium carbide, glycerine, lead, magnesium and zinc compounds not otherwise specified, aloes, asafoetida, cocaine, sarsaparilla and storax.]					
28 (9)	SACCHARINE (except in tablets) and such other substances as the 2[Central Government] may, by notification in the 3[official Gazette] declare to be of a like nature or use to saccharine.	Revenue.	Rs. 6-4 per lb.	...	...	...
8 (10)	SACCHARINE TABLETS	Revenue.	18-3/4 per cent <i>ad valorem</i> or Rs 6-4 per pound of saccharine contents, whichever is higher.	...	...	...
28 (11)	ALKALOIDS OF OPIUM and their derivatives.	Revenue.	Rs. 30 per seer of 80 tolas or 18-3/4 per cent, <i>ad valorem</i> , whichever is higher.	...	...	...
28 (12)	ALKALOIDS extracted from CINCHONA BARK including Quinine and alkaloids derived from other sources which are chemically identical with alkaloids extracted from cinchona bark.	...	Free	...	...	...

<sup>1</sup> The words "sodium bichromate" rep., by the Indian Tariff (Amendment) Act, 1947 25 of 1947), s. 2.

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>3</sup> Subs. by the A.O. 1937 for "Gazette of India",

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rate of duty.
				The United Kingdom.	A British Colony.	
28 (13)	ANTI-PLAQUE SERUM	...	Free	...	...	...
28 (14)	TOBACCO REQUISITES not otherwise specified	[Revenue]	[25] per cent. <i>ad valorem</i> .	3 * *	...	...
28 (15)	CALCIUM CHLORIDE					
	(a) of British manufacture.	Protective.	Rs. 2-4 per cwt.	...	...	March 31st, 1919.]
	(b) not of British manufacture.	Protective.	Rs. 1-11 per cwt.	...	...	March 31st, 1919.]
	Provided that calcium chloride manufactured in a British Colony shall be deemed to be of British manufacture.					
28 (16)	PERFORMIC ACID.	Protective	Rs. 23 per cwt.	...	...	March 31st, 1949.
28 (17)	POTASSIUM BICARBONATE, SODIUM BICARBONATE and all CARBON compounds.	Protective	20 per cent. <i>ad valorem</i>	...	...	March 31st, 1919.]
28 (18)	The following Sodium compounds manufactured--					
	(a) Sodium phosphate--					
	(i) of British manufacture.	Protective	Rs. 7-6 per cwt.	...	...	March 31st, 1949.
	(ii) not of British manufacture.	Protective	Rs. 11 per cwt.	...	...	March 31st, 1949.
	(b) Sodium sulphite and Sodium bisulphite--					
	(i) of British manufacture.	Protective.	Rs. 8 per cwt.	...	...	March 31st, 1950.
	(ii) not of British manufacture.	Protective.	Rs. 12 per cwt.	...	...	March 31st, 1950.
	(c) Sodium thiosulphate--					
	(i) of British manufacture.	Protective	Rs. 5 per cwt.	...	...	March 31st, 1950.

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

<sup>2</sup> Subs. *ibid.* for "30".

<sup>3</sup> The words and figure "20 per cent. *ad valorem*" rep., *ibid.*

<sup>4</sup> Items 28(15) to 28(18) ins. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947).

a. 2.

<sup>5</sup> Subs. by the Protective Duties Continuation Act, 1948 (18 of 1948) for "1948"

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
28(18) contd	(n) not of British manufacture: Provided that the articles dutiable under this Item manufactured in a British Colony shall be deemed to be of British manufacture.	Protective.	Rs. 7.8 per cwt.	...	...	March 31st, 1950.]
29	CINEMATOGRAPH FILMS, not exposed.	Revenue	2[Three pices per linear foot.]	...	...	..]
29(1)	CINEMATOGRAPH FILMS, exposed.	Revenue	3[Four annas per linear foot.]	...	...	...
30	PAINTS, COLOURS and PAINTERS' MATERIALS, all sorts not otherwise specified, including paints, solutions and compositions containing dangerous petroleum within the meaning of the Indian Petroleum Act, 1930, :	Preferential revenue	30 per cent <i>ad valorem</i> .	20 per cent. <i>ad valorem</i> .	...	...
30 (1)	DYES derived from coal-tar and coal-tar derivatives, used in any dyeing process.	Revenue.	10 per cent <i>ad valorem</i> .	...	...	...
30 (2)	PAINTS, COLOURS and PAINTERS' MATERIALS, the following, namely:—  (a) Red lead, genuine dry, genuine moist and reduced moist.  (b) White lead, genuine dry.	Preferential revenue.	30 per cent. <i>ad valorem</i> or Rs. 4.12 per cwt., whichever is higher.	20 per cent. <i>ad valorem</i> .	...	...
		Preferential revenue.	30 per cent. <i>ad valorem</i> or Rs. 5.12 per cwt., whichever is higher.	20 per cent. <i>ad valorem</i> .	...	...

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for the original item.

<sup>2</sup> Subs. by the Indian Finance Act, 1946 (7 of 1946), s. 6, for "20 per cent *ad valorem*".

<sup>3</sup> Subs. *ibid.* for "37½ per cent *ad valorem*".

<sup>4</sup> See now the Petroleum Act, 1934 (30 of 1934).

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty in the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
	(c) Zinc white, genuine dry.	Preferential revenue.	30 per cent. <i>ad valorem</i> or Rs. 6 per cwt., whichever is higher.	20 per cent. <i>ad valorem</i>	...	...
	(d) Paints, other sorts, coloured, moist—					
	(i) in packing of 1 lb. or over.	Preferential revenue.	30 per cent. <i>ad valorem</i> or Rs. 8.8 per cwt., whichever is higher.	20 per cent. <i>ad valorem</i> .	...	...
	(ii) in packing of $\frac{1}{2}$ lb. and over but less than 1 lb.	Preferential revenue.	30 per cent. <i>ad valorem</i> or Rs. 11.4 per cwt., whichever is higher.	20 per cent. <i>ad valorem</i>	...	...
	(iii) in packing of $\frac{1}{4}$ lb. and over but less than $\frac{1}{2}$ lb.	Preferential revenue.	30 per cent. <i>ad valorem</i> or Rs. 17 per cwt., whichever is higher.	20 per cent. <i>ad valorem</i> .	...	...
	(iv) in packing of less than $\frac{1}{4}$ lb.	Preferential revenue.	50 per cent. <i>ad valorem</i> or Rs. 21 per cwt., whichever is higher.	20 per cent. <i>ad valorem</i>	...	...
30(3)	PAINTS, COLOURS and PAINTERS' MATERIALS, the following, namely:—					
	(a) Red lead, reduced dry.	Revenue.	25 per cent. <i>ad valorem</i> or Rs. 4.12 per cwt., whichever is higher.	...	...	...
	(b) White lead, genuine moist, and reduced dry or moist.	Revenue.	25 per cent. <i>ad valorem</i> or Rs. 5.12 per cwt., whichever is higher.	...	...	...
	(c) Zinc white, genuine moist.	Revenue.	25 per cent. <i>ad valorem</i> or Rs. 6 per cwt., whichever is higher.	...	...	...
	(d) Zinc white, reduced dry or moist.	Revenue.	25 per cent. <i>ad valorem</i> or Rs. 4.4 per cwt., whichever is higher.	...	...	...

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
30 (4)	The following PAINTS, COLOURS and PAINTERS' MATERIALS, namely, barytes, turpentine, turpentine substitute, and varnish not containing dangerous petroleum within the meaning of the Indian Petroleum Act, 1899.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
30 (5)	PLUMBAGO and GRAPHITE, WHITE.	Preferential Revenue.	30 per cent. <i>ad valorem</i> .	...	20 per cent. <i>ad valorem</i>	...
30 (6)	PRINTERS' INK.	Revenue.	10 per cent. <i>ad valorem</i> .	...	...	...
30 (7)	LEAD PENCILS.	[Revenue.]	2[25] per cent. <i>ad valorem</i> or one anna per dozen, whichever is higher.	* * *	...	...
30 (8)	SLATE PENCILS.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
30 (9)	ABRASIVE PAPERS, and rolls, coils, discs, belts, shapes and tapes, made of abrasive paper, when imported as stores apart from machinery—					
	(a) of British manufacture.	Protective.	24 per cent. <i>ad valorem</i> .	...	...	March 31st, 1949.
	(b) not of British manufacture.	Protective.	30 per cent. <i>ad valorem</i> .	...	...	March 31st, 1949.
30 (10)	EMERY CLOTH and abrasive rolls, coils, discs, belts, shapes and tapes, made of emery cloth or a combination of emery cloth and paper [when imported as stores apart from machinery.]	Protective.	30 per cent. <i>ad valorem</i> .	...	...	March 31st, 1949.]
31	NATURAL ESSENTIAL OILS, all sorts not otherwise specified.	[Revenue.]	2[25] per cent. <i>ad valorem</i> .	* * *	...	...

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939 s. 3, for "Preferential revenue".

<sup>2</sup> Subs., *ibid*, for "30".

<sup>3</sup> The words and figure "20 per cent *ad valorem*" rep. *ibid*.

<sup>4</sup> Items Nos. 30(9) and 30(10) ins. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947) s. 2.

<sup>5</sup> Ins. by the Indian Tariff (Second Amendment) Act, 1947 (5 of 1948), s. 2.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
31 (1)	The following NATURAL ESSENTIAL OILS, namely, citronella, cinnamon, and cinnamon leaf.	Preferential revenue.	30 per cent. <i>ad valorem</i> .	1* * *	20 per cent. <i>ad valorem</i> .	...
31 (2)	The following NATURAL ESSENTIAL OILS, namely, almond, bergamot, gajupatti, camphor, cloves, eucalyptus, lavender, lemon, otto-rose and pepper-mint.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
31 (3)	ESSENTIAL OILS, synthetic.	2[Revenue]	3[25] per cent. <i>ad valorem</i> .	1* * *	...	...
31 (4)	CAMPHOR.	Revenue.	50 per cent. <i>ad valorem</i> .	...	...	...
31 (5)	PERFUMERY not otherwise specified	Revenue	25 per cent. <i>ad valorem</i> .	...	...	...
32	SOAP not otherwise specified.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
32 (1)	SOAP, TOILET.	2[Revenue]	4[25] per cent. <i>ad valorem</i> or Rs. 20 per cwt., whichever is higher.	5* * *	...	...
32 (2)	SOAP HOUSEHOLD and LAUNDRY—					
	(a) in plain bars of not less than one pound in weight.	Revenue.	Rs. 1 per cwt.	...	...	...
	(b) other sorts.	Revenue.	Rs. 6-8 per cwt.	...	...	...
32 (3)	POLISHES and compositions.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
32 (4)	CANDLES.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
33	GLUE, not otherwise specified.	2[Revenue.]	3[25] per cent. <i>ad valorem</i> .	1* * *	...	...

1 The words and figure "20 per cent *ad valorem*" rep. by the Indian Tariff (Third Amendment) Act, 1939, s. 3.

2 Subs., *ibid.* for "Preferential revenue."

3 Subs., *ibid.* for "30".

4 Subs., *ibid.* for "35".

5 The words and figure "25 per cent *ad valorem*", rep. *ibid.*



Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom.	A British Colony.	
33 (1)	GLUE, clarified, liquid.	Revenue.	10 per cent. <i>ad valorem</i> .	...	...	...
34	GUNPOWDER, for cannons, rifles, guns, pistols and sporting purposes.	Revenue.	50 per cent. <i>ad valorem</i> .	...	...	...
34 (1)	EXPLOSIVES, namely, blasting gunpowder, blasting gelatine, blasting dynamite, blasting roborite, blasting tonite, and all other sorts, including detonators and blasting fuze.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
34 (2)	FIREWORKS specially prepared as danger or distress lights for the use of ships.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
34 (3)	FIREWORKS, not otherwise specified	Revenue.	50 per cent. <i>ad valorem</i>	...	...	...
34 (4)	MATCHES, undipped splints and veneers—					
	(a) Matches—					
	(1) In boxes or booklets containing on an average not more than 40 matches	Protective	The rate at which excise duty is for the time being leviable on such matches manufactured in <sup>1</sup> [the Provinces] plus ten annas per gross of boxes or booklets.	...	...	...
	(2) In boxes or booklets containing on an average more than 40 but not more than 60 matches.	Protective.	The rate at which excise duty is for the time being leviable on such matches manufactured in <sup>1</sup> [the Provinces] plus fifteen annas per gross of boxes or booklets.	...	...	...

<sup>1</sup> Subs. by the A.O. 1918 for "British India".

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
34(4) contd.	(3) In boxes or booklets containing on an average more than 60 but not more than 80 matches.	Protective.	The rate at which excise duty is for the time being leviable on such matches manufactured in <sup>1</sup> [the Provinces] plus Re. 1-4 per gross of boxes or booklets.	...	...	...
	(4) All other matches.	Protective.	The rate at which excise duty is for the time being leviable on such matches manufactured in <sup>1</sup> [the Provinces] plus one pie for every 48 matches or fraction thereof.	...	...	...
	(b) Undipped splints such as are ordinarily used for match making.	Protective.	Five annas and seven and a half pies per lb.	...	...	...
	(c) Veneers such as are ordinarily used for making boxes, including boxes and parts of boxes made of such veneers.	Protective.	Seven annas and six pies per lb.	...	...	...
35	MANURES, all sorts including animal bones and the following chemical manures :— Basic slag, nitrate of ammonia, nitrate of soda, muriate of potash, sulphate of ammonia, sulphate of potash, kainit salts, carbo lime, urea, nitrate of lime, calcium cyanamide, ammonium phosphates, mineral phosphates and mineral super-phosphates.	...	Free	...	...	...

<sup>1</sup> Subs. by the A.O. 1948 for "British India".

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom?	A British Colony.	

## SECTION VII.

## HIDES, SKINS, LEATHER, FUR SKINS, AND MANUFACTURES OF THESE MATERIALS.

36	HIDES and SKINS not otherwise specified.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
36 (1)	HIDES and SKINS, RAW OR SALTED.	...	Free . . .	...	...	...
36 (2)	SKINS (other than FUR SKINS), TANNED OR DRESSED, and unwrought leather.	<sup>1</sup> [Revenue.]	<sup>2</sup> [25] per cent. <i>ad valorem</i> .	3* * *	...	...
37	The following LEATHER MANUFACTURES, namely, saddlery, harness, trunks and bags.	Revenue.	25 per cent <i>ad valorem</i>	...	...	...
37 (1)	LEATHER CLOTH including artificial leather and other manufactures of leather, and otherwise specified.	<sup>1</sup> [Revenue.]	<sup>2</sup> [25] per cent. <i>ad valorem</i> .	3* * *	...	...
38	FUR SKINS, DRESSED.	<sup>1</sup> [Revenue.]	<sup>2</sup> [25] per cent. <i>ad valorem</i> .	3* * *	...	...

## SECTION VIII. \*

## RUBBER AND ARTICLES MADE OF RUBBER.

39	RUBBER, RAW.	...	Free . . .	...	...	...
39 (1)	RUBBER TYRES and TUBES and other manufactures of rubber, not otherwise specified, excluding apparel and boots and shoes.	<sup>1</sup> [Revenue.]	<sup>2</sup> [25] per cent. <i>ad valorem</i> .	3* * *	...	...

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939. s. 3 for "Preferential revenue".

<sup>2</sup> Subs. *ibid*, for "30".

<sup>3</sup> The words and figure "20 per cent *ad valorem*" rep., *ibid*.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	

## SECTION IX.

## WOOD AND CORK AND WARES OF THESE MATERIALS; GOODS MADE OF PLATING MATERIALS.

40	WOOD and TIMBER, all sorts, not otherwise specified, including all sorts of ornamental wood.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
40 (1)	THEWOOD.	Revenue	2½ per cent. <i>ad valorem</i> .	...	...	...
40 (2)	FURNITURES and CABINETWARE, not otherwise specified, excluding mouldings.	<sup>1</sup> [Revenue.]	<sup>2</sup> [25] per cent. <i>ad valorem</i> .	<sup>3</sup> * *	...	...
40 (3)	TEA CHESTS and parts and fittings thereof.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
41	CORK MANUFACTURES not otherwise specified.	<sup>1</sup> [Revenue.]	<sup>2</sup> [25] per cent. <i>ad valorem</i> .	<sup>3</sup> * *	...	...
42	FURNITURE OF WICKER WORK or bamboo.	<sup>1</sup> [Revenue.]	<sup>2</sup> [25] per cent. <i>ad valorem</i> .	<sup>3</sup> * *	...	...

## SECTION X.

## PAPER AND ITS APPLICATIONS.

43	WOOD PULP.	Revenue.	18 per cent. <i>ad valorem</i> .	...	...	...
44	PAPER, all sorts, not otherwise specified.	Revenue.	30 per cent. <i>ad valorem</i> .	...	...	...
4*	* * *	* * *	* * *	* *	* *	* *
514(4)	PASTE BOARD MILLBOARD, CARD-BOARD AND STRAW-BOARD, all sorts.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue."

<sup>2</sup> Subs., *ibid.* for "30".

<sup>3</sup> The words and figure "20 per cent *ad valorem*" rep., *ibid.*

<sup>4</sup> Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2, for Items Nos. 43, 44, 44(1), 44(2) and 44(3) which had been substituted for the original items by the Indian Tariff (Second Amendment) Act, 1939 (18 of 1939), s. 2 and amended by Acts 11 of 1942, 13 of 1942 and 16 of 1946.

<sup>5</sup> Subs. by Act 18 of 1939 for the original items.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
44 (5)	TRADE CATALOGUES and ADVERTISING CIRCULARS imported by packet, book or parcel post.	Free.	...	...	...	...
44 (6)	PAPER MONEY.	Free.	...	...	...	...
44 (7)	NEWSPAPERS old, in bales and bags.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
45	Articles made of PAPER and PAPIER MACHE; STATIONERY including drawing and copy books, labels, advertising circulars, sheet or card almanacs and calendars, Christmas, Easter and other cards, including cards in booklet forms; including also waste paper <sup>1</sup> * * *	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
45 (1)	BOOKS, PRINTED, including covers for printed books, maps, charts and plans, proofs, music, manuscripts, and illustrations specially made for binding in books.	Free.	...	...	...	...
45 (2)	PRINTS, ENGRAVINGS and PICTURES (including photographs and picture postcards) on paper or cardboard.	Revenue.	50 per cent. <i>ad valorem</i> .	...	...	...

## SECTION XI.

## TEXTILE MATERIALS AND TEXTILE GOODS.

46	SILK, RAW (excluding silk waste and noils), and silk cocoons.	Protective.	25 per cent. <i>ad valorem plus</i> 14 annas per lb.	...	...	March 31st, 2[1949.]
----	---	-------------	--	-----	-----	----------------------

<sup>1</sup> The words "but excluding paper and stationery otherwise specified" rep. by Act 25 of 1947, s. 2.

<sup>2</sup> Subs. by the Protective Duties Continuation Act, 1948 (18 of 1948) for "1948". The original figure was "1939". It had been changed into "1940", "1942", "1944", "1946", "1947", and "1948" by Acts 18 of 1939, 22 of 1940, 11 of 1942, 13 of 1944, 16 of 1946 and 25 of 1947 respectively.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
46 (1)	SILK WASTE and NOILS.	Protective.	25 per cent. <i>ad valorem</i> .	..	...	March 31st, 1[1949.]
46 (2)	WOOL, RAW, and wooltops.	..	Free	...	...	...
46 (3)	COTTON, RAW.	Revenue.	2[Two annas per lb.]	...	...	...
46 (4)	TEXTILE MATERIALS, the following:—  Raw flax, hemp, jute and all other manufactured textile materials not otherwise specified.	Revenue	Raw hemp—18-3/4 per cent. <i>ad valorem</i> ; all others—25 per cent. <i>ad valorem</i> .	...	...	...
46 (5)	SISAL and ALOE FIBRE	Preferential revenue	30 per cent. <i>ad valorem</i>	..	20 per cent. <i>ad valorem</i>	...
47	3[SILK YARN including thrown silk warps and yarn spun from silk waste or noils, but excluding sewing thread.]	Protective	25 per cent. <i>ad valorem</i> plus 14 annas per lb.	..	...	March 31st, 1[1949.]
47 (1)	3[SILK SEWING THREAD ]	Protective.	25 per cent. <i>ad valorem</i>	..	...	March 31st, 1[1949.]
47 (2)	ARTIFICIAL SILK YARN and THREAD.	Revenue.	4[25 per cent <i>ad valorem</i> or 5 annas per lb., whichever is higher.]	..	...	..
47 (3)	WOOLLEN YARN not otherwise specified	5[Revenue.]	6[25] per cent. <i>ad valorem</i> .	7a * *	...	...

1 Subs. by the Protective Duties Continuation Act, 1948 (18 of 1948) for "1948". The original figure was "1939". It had been changed into "1940", "1942", "1944", "1946", "1947" and "1948" by Acts 18 of 1939, 22 of 1940, 11 of 1942, 13 of 1944, 16 of 1946 and 25 of 1947 respectively.

2 Subs. by the Indian Finance Act, 1946 (7 of 1946) s. 6 for "one anna per lb." which had been subs. for the original words by the Indian Finance Act, 1939, s. 1.

3 Subs. by the Indian Tariff (Second Amendment) Act, 1936 (12 of 1936), s. 2, for the original entry.

4 Subs. by the Indian Finance Act, 1941 (7 of 1941), s. 5, for "25 per cent *ad valorem* or 3 annas per lb., whichever is higher."

5 Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue"

6 Subs. *ibid.*, for "35".

7 The words and figure "25 per cent *ad valorem*" rep., *ibid.*

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
47 (4)	WOOLLEN YARN for weaving and knitting wool.	<sup>1</sup> [Revenue.]	<sup>2</sup> [25] per cent. <i>ad valorem</i> .	<sup>3</sup> * * *	...	...
47 (5)	COTTON THREAD other than sewing or darning thread.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
47 (6)	COTTON TWIST and YARN, and cotton sewing or darning thread—					
	(a) of counts above 50's—					
	(i) of British manufacture.	<sup>4</sup> [Revenue.]	5 per cent. <i>ad valorem</i> .	...	...	5* * *
	(ii) not of British manufacture.	<sup>4</sup> [Revenue.]	6-1/4 per cent. <i>ad valorem</i> .	...	...	5+ * *
	(b) of counts 50's and below—					
	(i) of British manufacture.	<sup>4</sup> [Revenue]	5 per cent. <i>ad valorem</i> or 1-1/4 annas per lb., whichever is higher.	...	...	5* * *
	(ii) not of British manufacture.	<sup>4</sup> [Revenue]	6-1/4 per cent. <i>ad valorem</i> or 1-7/8 annas per lb., whichever is higher.	...	...	5* * *
47 (7)	TWIST and YARN OF FLAX OR JUTE.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939 s. 3 for "Preferential Revenue."

<sup>2</sup> Subs. *ibid*, for "30".

<sup>3</sup> The words and figure "20 per cent *ad valorem*" rep., *ibid*.

<sup>4</sup> Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2 for "Protective."

<sup>5</sup> The word and figures "March 31st, 1947" rep. by Act 25 of 1917, s. 2. The original date was "March 31st, 1939". The figure "1939" had been changed into "1942", "1944", "1946" and "1947" by the Indian Tariff (Third Amendment) Act, 1939, Acts 11 of 1942, 13 of 1944 and 16 of 1946 respectively.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom.	A British Colony.	
47(8)	YARNS (excluding cotton yarn) such as is ordinarily used for the manufacture of belting for machinery.	Revenue.	6 1/4 per cent <i>ad valorem</i> .	...	...	...
48	FABRICS, not otherwise specified, containing more than 90 per cent. of silk, including such fabrics embroidered with artificial silk—					
	(a) Pongee.	Protective.	50 per cent. <i>ad valorem plus</i> Rs. 1 per lb.	...	...	March 31st. 1[1949.]
	(b) Fuli, Boseki and corded (excluding white cord).	Protective.	50 per cent. <i>ad valorem plus</i> Rs. 1.8 per lb.	...	...	March 31st. 1[1949.]
	(c) Other sorts.	Protective.	50 per cent. <i>ad valorem plus</i> Rs. 2 per lb.	...	...	March 31st. 1[1949.]
48(1)	FABRICS, not otherwise specified, containing more than 90 per cent. of artificial silk—					
	(a) of British manufacture.	Protective.	30 per cent. <i>ad valorem</i> or 2-1/2 annas per square yard, whichever is higher	...	...	March 31st. 2[1949.]
	(b) not of British manufacture.	Protective.	50 per cent. <i>ad valorem</i> or 4 annas per square yard, whichever is higher.	...	...	March 31st. 2[1949.]

1 Subs. by the Protective Duties Continuation Act, 1948 (18 of 1948), s. 2 for "1948". The original figure "1939" had been changed into "1940", "1942", "1944", "1946", "1947" and "1948" by Acts 18 of 1939, 22 of 1940, 11 of 1942, 15 of 1944, 16 of 1946 and 25 of 1947, respectively.

2 Subs. *ibid*, for "1948". The original figure "1939" had been changed into "1942", "1944", "1946", "1947" and "1948" by the Indian Tariff (Third Amendment) Act, 1939, s. 3 and Acts 11 of 1942, 13 of 1944, 16 of 1946 and 25 of 1947, respectively.



Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
48(2)	WOOLLEN FABRICS, not otherwise specified, containing more than 90 per cent. of wool excluding felt and fabrics made of shoddy or waste wool.	1[Revenue.]	2[25] per cent. <i>ad valorem</i> or <i>lie</i> . 1-2 per lb., whichever is higher.	3* * *	...	...
4[48(3)]	COTTON FABRICS not otherwise specified, containing more than 90 per cent. of cotton—					
	(a) Grey piece-goods (excluding bordered grey chaders, dhuties, saris and scarves)—					
	(i) of British manufacture.	5[Revenue.]	15 per cent. <i>ad valorem</i> or 2-5/8 annas per lb., whichever is higher.	...	...	6* * *
	(ii) not of British manufacture.	5[Revenue.]	50 per cent. <i>ad valorem</i> or 5-1/4 annas per lb., whichever is higher.	...	...	6† * *
	(b) Printed piece-goods and printed fabrics—					
	(i) of British manufacture.	5[Revenue.]	17-1/2 per cent. <i>ad valorem</i> .	...	...	6 * *
	(ii) not of British manufacture.	5[Revenue.]	50 per cent. <i>ad valorem</i> .	...	...	6* * *
	(c) Cotton piece-goods and fabrics not otherwise specified.					

1 Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue."

2 Subs., *ibid* for "35".

3 The words and figure "25 per cent *ad valorem*" rep., *ibid*.

4 Subs. by the Indian Tariff (Third Amendment) Act, 1939 s. 3, for the original item (with effect from 1-4-1939).

5 Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947) s. 2, for "Protective."

6 The word and figures "March 31st, 1947" rep., *ibid*. The original date was "March 31st, 1942". The figure "1942" had been changed into "1944", "1946" and "1947" by Acts 11 of 1942, 13 of 1944 and 16 of 1946, respectively.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce of manufacture of		Duration of protective rates of duty
				The United Kingdom.	A British Colony	
48(3) (Contd.)	(i) of British manufacture.	2[Revenue.]	5 per cent. <i>ad valorem</i> .	..	...	3* * *
	(ii) not of British manufacture.	2[Revenue.]	50 per cent. <i>ad valorem</i> .	...	...	3* [ ] ]
48(4)	FABRICS, not otherwise specified, containing more than 10 per cent. and not more than 90 per cent. silk—					
	(a) containing more than 50 per cent. of silk or artificial silk or of both.	Protective.	50 per cent. <i>ad valorem</i> plus Rs. 2 per lb.	..	...	March 31st, 4[1949.]
	(b) containing not more than 50 per cent. of silk or artificial silk or of both—					
	(i) containing more than 10 per cent. artificial silk.	Protective.	50 per cent. <i>ad valorem</i> or Rs. 1.8 per lb., whichever is higher.	...	..	March 31st, 4[1949.]
	(ii) containing no artificial silk or not more than 10 per cent. artificial silk.	Protective.	50 per cent. <i>ad valorem</i> .	...	...	March 31st, 4[1949.]
48(5)	FABRICS, not otherwise specified, containing not more than 10 per cent. silk but more than 10 per cent. and not more than 90 per cent. artificial silk—					

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for the original item (with effect from 1-4-1939).

<sup>2</sup> Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2, for "Protective."

<sup>3</sup> The word and figures "March 31st, 1947" rep., *ibid.* The original date was "March 31st 1942". The figure "1942" had been changed into "1944", "1946" and "1947" by Acts 11 of 1942 13 of 1944 and 16 of 1946, respectively.

<sup>4</sup> Subs. by the Protective Duties Continuation Act, 1948, s. 2 for "1948". The original figure "1939" had been changed into "1940", "1942", "1944", "1946", "1947" and "1948" by Acts 18 of 1939, 22 of 1940, 11 of 1942, 13 of 1944, 16 of 1946 and 25 of 1947, respectively.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce of manufacture of		Duration of protective rates of duty.
				The United Kingdom.	Colony, A British	
48(5) Contd.	(a) containing 50 per cent. or more cotton—					
	(i) of British manufacture.	Protective.	per cent. <i>ad valorem</i> or 2 annas per square yard, whichever is higher.	...	...	March 31st <sup>1</sup> [1949.]
	(ii) not of British manufacture.	Protective	50 per cent. <i>ad valorem</i> or 3-1/4 annas per square yard, whichever is higher.	...	...	March 31st. <sup>1</sup> [1949.]
	(b) containing no cotton or containing less than 50 per cent. cotton—			...	...	March 31st. <sup>1</sup> [1949.]
	(i) of British manufacture.	Protective	80 per cent. <i>ad valorem</i> or 2-1/2 annas per square yard, whichever is higher.	...	...	
	(ii) not of British manufacture.	Protective	50 per cent. <i>ad valorem</i> or 4 annas per square yard, whichever is higher.	...	...	March 31st. <sup>1</sup> [1949.]
48(6)	FABRICS, not otherwise specified containing not more than 10 per cent. silk or 10 per cent. artificial silk, but containing more than 10 per cent. but not more than 90 per cent. wool.	<sup>2</sup> [Revenue.]	50 per cent. <i>ad valorem</i> . <sup>4</sup>	* * *		

<sup>1</sup> Subs. by the Protective Duties Continuation Act, 1948 (18 of 1948), s. 2 for "1948." The original figure "1939" had been changed into "1942", "1944", "1946", "1947", and "1948" by the Indian Tariff (Third Amendment) Act, 1939, Acts 11 of 1942, 13 of 1944, 16 of 1946 and 25 of 1947, respectively.

<sup>2</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939 s. 2 for "Preferential revenue."

<sup>3</sup> Subs., *ibid*, for "85".

<sup>4</sup> The words and figure "25 per cent *ad valorem*" rep., *ibid*.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
48 (7)	FABRICS, not otherwise specified, containing not more than 10 per cent. silk or 10 per cent. artificial silk or 10 per cent. wool, but containing more than 50 per cent. cotton and not more than 90 per cent. cotton---					
	(a) of British manufacture.	Protective.	25 per cent. <i>ad valorem</i> .	...	...	March 31st, 1[1949.]
	(b) not of British manufacture.	Protective.	50 per cent. <i>ad valorem</i> .	...	...	March 31st, 1[1949.]
48 (8)	FABRICS, not otherwise specified, containing not more than 10 per cent. silk or 10 per cent. artificial silk or 10 per cent. wool or 50 per cent. cotton.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
<sup>1</sup> [48(9)]	The following COTTON FABRICS, namely, Steens including italians of Sateen weave, velvets and velveteens and embroidered all-overs---					
	(a) Printed fabrics---					
	(i) of British manufacture.	<sup>3</sup> [Revenue.]	17-1/2 per cent. <i>ad valorem</i> .	...	...	4* * *

<sup>1</sup> Subs. by the Protective Duties Continuation Act, 1948 (18 of 1948), s. 2 for "1948". The original figure "1939" had been changed into "1942", "1944", "1946", "1947", and "1948" by the Indian Tariff (Third Amendment) Act, 1939, Acts 11 of 1942, 13 of 1944, 16 of 1946 and 25 of 1947, respectively.

<sup>2</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for the original item (with effect from 1-4-1939).

<sup>3</sup> Subs. by the Indian Tariff (Amendment) Act, 1947, (25 of 1947), s. 2 for "Protective".

<sup>4</sup> The words and figures "March 31st, 1947" rep., *ibid*. The original figure "1942" had been changed into "1944", "1946" and "1947" by Acts 11 of 1942, 13 of 1944 and 16 of 1946, respectively.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
48 (9) Contd.	(ii) not of British manufacture.	1[Revenue.]	35 per cent. <i>ad valorem</i> .	...	...	2* * *
	(b) Other fabrics—					
	(i) of British manufacture.	1[Revenue.]	15 per cent. <i>ad valorem</i> .	...	...	2* * *
	(ii) not of British manufacture.	1[Revenue.]	35 per cent. <i>ad valorem</i> .	...	...	2* * *]
48(10)	FABRICS containing gold or silver thread.	Protective.	50 per cent. <i>ad valorem</i> .	...	...	March 31st, 3[1949.]
49	TEXTILE MANUFACTURES, the following articles when made wholly or mainly of any of <sup>4</sup> the fabrics specified in—					
	(a) Item No. 48, 48(1), 48(4), 48(5), 48(7) or 48(10);	Protective.	The <i>ad valorem</i> rates of duty applicable to the fabric of which the article is wholly or mainly made.	...	...	The duration applicable to the fabric of which the article is wholly or mainly made.]
	(b) Item No. 48(3) or 48(9):— Bed sheets. Bed spreads. Blosser cases Counterpanes, Cloths, table Cloths, tray. Covers, bed. Covers table. Dusters. Glass-cloths. Handkerchiefs. Napkins. Pillow cases. Pillow slips.	Revenue.	The <i>ad valorem</i> rates of duty applicable to the fabric of which the article is wholly or mainly made.	...	...	...

<sup>1</sup> Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2 for "Protective".

<sup>2</sup> The words and figures "March 31st. 1947" rep., *ibid.* The original figure "1942" had been changed into "1944", "1946" and "1947" by Acts 11 of 1942, 13 of 1944 and 16 of 1946, respectively.

<sup>3</sup> Subs. by the Protective Duties Continuation Act, 1948 (18 of 1948), s. 2 for "1948." The original figure "1939" had been changed into "1942", "1944", "1946", "1947" and "1948" by the Indian Tariff (Third Amendment) Act, 1939, Acts 11 of 1942, 13 of 1944, 16 of 1946 and 25 of 1947, respectively.

<sup>4</sup> Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2 for "the fabrics specified in Item No. 48, 48(1), 48(3), 48(4), 48(5), 48(7), 48(9) or 48(10):—in the second column, and for the entries in the succeeding columns as amended by Act 18 of 1939.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom.	A British Colony.	
49 Contd.	Scurves. Shirts. Shawls. Sacks (cotton). Towels. Umbrella Coverings.					
49(1)	FENTS being <i>bona fide</i> remnants of piece-goods or other fabrics—					
	(a) of materials liable to duty under Item 48(3), not exceeding 4 yards in length.	Preferential revenue.	35 per cent. <i>ad valorem</i> .	25 per cent. <i>ad valorem</i> .	...	...
	(b) of materials liable to duty under Item 48, 48 (1), 48 (4) or 48(5), not exceeding 2½ yards in length.	Preferential revenue.	35 per cent. <i>ad valorem</i> .	25 per cent. <i>ad valorem</i> .	..	..
	(c) of other materials not exceeding 4 yards in length.	Preferential revenue.	35 per cent. <i>ad valorem</i> .	25 per cent. <i>ad valorem</i> .	...	...
49(2)	Ribbons.	2[Revenue]	50 per cent. <i>ad valorem</i> .	3* * *	...	...
49(3)	BLANKETS and RUGS (other than floor rugs), excluding blankets and rugs made wholly or mainly from artificial silk.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	..
49(4)	WOOLLEN CARPETS, FLOOR RUGS, SHAWLS and other manufactures of wool, not otherwise specified, including felt.	Preferential revenue.	35 per cent. <i>ad valorem</i> .	25 per cent. <i>ad valorem</i> .	...	...

<sup>1</sup> Subs. by the Indian Tariff (Second Amendment) Act, 1936 (12 of 1936), s. 2 for the original item.

<sup>2</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue".

<sup>3</sup> The words and figure "40 per cent *ad valorem*" rep., *ibid*.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
49 (5)	COTTON BRAIDS or CORDS, the following, namely—  Ghoonsis and Muktakesis.	1[Revenue]	6 1/2 annas per lb.	...	...	2* * *
50	JUTE MANUFACTURES not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i> .	...	...	...
50 (1)	Second hand or used GUNNY BAGS or cloth made of jute.	...	Free.	...	...	...
50 (2)	HEMP MANUFACTURES.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
50 (3)	COTTON, HAIR and CANVAS PLY BELTING for machinery.	Revenue.	6-1/4 per cent. <i>ad valorem</i> .	...	...	...
50 (4)	ROPES, COTTON.	...	Free.	...	...	...
50 (5)	OIL CLOTH and FLOOR CLOTH.	3[Revenue]	4[25] per cent. <i>ad valorem</i> .	5* * *	...	...
50 (6)	CORDAGE, ROPE and TWINE of vegetable fibre other than jute and cotton, not otherwise specified.	3[Revenue]	4[25] per cent. <i>ad valorem</i> .	5* * *	...	...
50 (7)	MATS and MATTINGS, not otherwise specified.	Revenue.	25 per cent. <i>ad valorem</i> .	...	...	...
50 (8)	COIR FIBRE, COIR YARN and COIR MATS and matting.	Preferential revenue.	30 per cent. <i>ad valorem</i> .	...	20 per cent. <i>ad valorem</i> .	...
51	SOCKS and STOCKINGS made wholly or mainly from silk or artificial silk.	3[Revenue.]	50 per cent. <i>ad valorem</i> .	6* * *	...	...

1 Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2 for "Protective".

2 The word and figures "March 31st, 1947" rep., *ibid*. The original date was "March 31st 1939". The figure "1939" had been changed into "1942", "1944", "1946", and "1947" by the Indian Tariff (Third Amendment) Act, 1939, Acts 11 of 1942, 13 of 1944 and 16 of 1946, respectively.

3 Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue".

4 Subs. *ibid* for "30".

5 The words and figures "20 per cent *ad valorem*", rep., *ibid*.

6 The words and figure "40 per cent *ad valorem*" rep., *ibid*.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony.	
51 (1)	WOOLLEN HOSIERY and woollen knitted apparel, that is to say, all hosiery and knitted apparel containing not less than 10 per cent of wool by weight.	<sup>1</sup> [Revenue.]	<sup>2</sup> [25] per cent. <i>ad valorem</i> or 12 per lb., whichever is higher.	3* * *	...	...
<sup>3</sup> [51 (2)]	COTTON KNITTED APPAREL, including apparel made of cotton interlocking material, cotton undershirts, knitted or woven, and cotton socks and stockings—					
	(a) of a weight not exceeding 4 lbs. per dozen	<sup>5</sup> [Revenue.]	25 per cent. <i>ad valorem</i> or 12 annas per lb., whichever is higher.	...	...	6* * *
	(b) of a weight exceeding 4 lbs. per dozen.	<sup>5</sup> [Revenue]	25 per cent. <i>ad valorem</i> or 10 annas per lb., whichever is higher.	...	...	6* * *
51 (3)	COTTON KNITTED FABRIC.	<sup>5</sup> [Revenue]	50 per cent. <i>ad valorem</i> or 12 annas per lb., whichever is higher.	...	...	6* * *
52	APPAREL, HOSIERY, HABERDASHERY, MILLINERY and DRESSERY, not otherwise specified.	<sup>1</sup> [Revenue.]	<sup>2</sup> [25] per cent. <i>ad valorem</i>	3* * *	3* * *	...

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue".

<sup>2</sup> Subs. *ibid.* for "35".

<sup>3</sup> The words and figure "25 per cent *ad valorem*" rep. *ibid.*

<sup>4</sup> Subs. by the Indian Tariff (Second Amendment) Act, 1936 (12 of 1936), s. 2 for the original item.

<sup>5</sup> Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2 for "Protective".

<sup>6</sup> The words and figures "March 31st, 1947" rep. *ibid.* The original date was "March 31st 1939". The figure "1939" had been changed into "1942", "1944", "1946" and "1947" by the Indian Tariff (Third Amendment) Act, 1939, Acts 11 of 1942, 13 of 1944 and 16 of 1946, respectively.



Item No.	Name of article	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
(1)	Silk or Artificial silk goods used or required for medical purposes, namely - silk or artificial silk ligatures, elastic silk or artificial silk hosiery, elbow pieces, thigh pieces knee caps, leggings, socks, anklets, slings, suspensory bandages, silk or artificial silk abdominal belts, silk or artificial silk web catheter tubes and oiled silk or artificial silk	Revenue	25 per cent <i>ad valorem</i>	.	.	..
52 (2)	Uniforms and Accoutrements appertaining thereto imported by a public servant for his personal use		Free	.	...	...
52 (3)	Insignia and Badges of official British and Foreign Orders		Free	.	.	...
	Textile manufactures not otherwise specified	<sup>1</sup> [Revenue]	<sup>2</sup> [25] per cent <i>ad valorem</i>	3* * *	.	.
53 (1)	Paper and other materials used in wood pulp		Free	.	...	...

## SECTION XII.

FOOTWEAR, HATS, UMBRELLAS AND PARASOLS, ARTICLES OF FASHION.

54	Boots and Shoes	Revenue	25 per cent <i>ad valorem</i> or 6 annas per pair, whichever is higher	..	...
----	-----------------	---------	--	----	-----

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s 3 for "Preferential revenue"<sup>2</sup> Subs., *ibid* for "85".<sup>3</sup> The words and figure "25 per cent *ad valorem*" rep., *ibid*<sup>4</sup> The words "not otherwise specified" rep., *ibid*

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		
				The United Kingdom	A British Colony	Other countries
91*	* * *	* * *	* * *	* * *	* * *	* * *
54 (2)	UPPERS FOR BOOTS and SHOES unless entirely made of leather	Revenue	25 per cent <i>ad valorem</i> or 3 annas per pair whichever is higher			
55	HATS of any material not otherwise provided for	[Revenue]	5[25] per cent <i>ad valorem</i>			
56	PARA-AMINE SULPHONIC ACIDS and their salts	[Revenue]	5[25] per cent <i>ad valorem</i>			
56 (1)	LUMBRICUS	[Revenue]	5[25] per cent <i>ad valorem</i> or 8 annas per lb. whichever is higher			

## SECTION XIII.

## WARES OF LIME AND OF OTHER MINERAL MATERIALS OF ANO PRODUCTS OF GLASS AND GLASSWARE

58	Articles made of Revenue Stone or Marble		25 per cent <i>ad valorem</i>			
58 (1)	Asbestos manufactures, not otherwise specified	2[Revenue]	5[25] per cent <i>ad valorem</i>	7* * *		
58 (2)	Packing—Engine and Boiler—all sorts not otherwise specified	2[Revenue]	5[25] per cent <i>ad valorem</i>	7* * *		

1 Item 54(1) rep. by the Indian Tariff (Third Amendment) Act 1933 s. 3

2 Subs. *ibid* for 'Preferential revenue.'3 Subs. *ibid* for "35"4 The words and figure "25 per cent *ad valorem*", rep. *ibid*5 Subs. *ibid*, for "80"6 The words and figure "20 per cent *ad valorem*" rep. *ibid*7 The words and figure "20 per cent *ad valorem*" rep. *ibid*

Item No	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British colony	
59	BUILDING AND FINISHING MATERIALS all sorts not of iron steel or wood not otherwise specified including tiles other than glass earthenware or porcelain tiles and fire bricks not being component parts of any articles included in Item No 72 or No 74 (2)	1[Revenue]	[25] per cent <i>ad valorem</i>	3*	*	
59 (1)	BUILDING and FINISHING MATERIALS	Revenue	per cent <i>ad valorem</i>			
59 (2)	EARthenware, CHINA and PORCELAIN all sorts not otherwise specified	1[Revenue]	[25] per cent <i>ad valorem</i>	3*	*	
59 (3)	EARthenware, CHINA and PORCELAIN	Revenue	per cent <i>ad valorem</i>			
59 (4)	IRON and STEEL	1[Revenue]	[15] per cent <i>ad valorem</i> or two	3*	*	
59 (5)	DURABLE MATERIALS (CHINA and PORCELAIN) all sorts not otherwise specified	1[Revenue]	[25] per cent <i>ad valorem</i> or ten	3*	*	
	(a) having a capacity of more than 7 1/2 ozs		per dozen whichever is higher			
	(b) having a capacity of more than 7 1/2 ozs	1[Revenue]	[25] per cent <i>ad valorem</i> or four	3*	*	
			per dozen whichever is higher			

1 Substituted by the Indian Tariff (Third Amendment) Act 1939 s. 3 for "Preferential revenue"

2 Substituted for "90"

3 The words and figure "20 per cent *ad valorem*" rep. *ibid*

Item No	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of			Duration of protective rates of duty
				The	United	A British Colony	
59 (5) — Contd.	DOMESTIC FATHEN WARE CHINA and FOREIGN WARE the following name by —contd.						
	(i) Saucers	1[Revenue]	2[25] per cent. <i>ad valorem</i> or five annas per dozen, whichever is higher	3*	*	*	...
	(ii) for use with tea cups or coffee cups having a capacity of more than 7½ ozs	1[Revenue]	2[25] per cent. <i>ad valorem</i> or two annas per dozen whichever is higher	3*	*	*	...
	(iii) for use with tea cups or coffee cups having a capacity of not more than 20 ozs	1[Revenue]	2[25] per cent. <i>ad valorem</i> or 1s per dozen whichever is higher	3*	*	*	...
	(iv) having a capacity of more than 10 ozs and not more than 20 ozs	1[Revenue]	2[25] per cent. <i>ad valorem</i> or 1s per dozen whichever is higher	3*	*	*	...
	(v) having a capacity of not more than 10 ozs	1[Revenue]	2[25] per cent. <i>ad valorem</i> or twelve annas per dozen whichever is higher	3*	*	*	...
	(vi) Sugar bowls	1[Revenue]	2[25] per cent. <i>ad valorem</i> or Re 1s per dozen whichever is higher	3*	*	*	...
	(vii) Jars having a capacity of over 10 ozs	1[Revenue]	2[25] per cent. <i>ad valorem</i> or twelve annas per dozen, whichever is higher	3*	*	*	...

\* Subs. by the Indian Tariff (Third Amendment) Act 1930 s. 3 for "Preferential revenue".

2 Subs. *ibid.* for "80"

3 The words and figure "20 per cent. *ad valorem*" rep. *ibid.*

Item No.	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
59	DOMESTIC BATHING WARE, CHINA and PORCELAIN, the following, namely					
(5) — Contd	contd					
	(i) Plates over 5½ inches in diameter	1 [Revenue]	2½ per cent <i>ad valorem</i> or Re. 1 per dozen, which ever is higher	34	*	...
	(ii) over 8½ inches in diameter	1 [Revenue]	2½ per cent <i>ad valorem</i> or ten annas per dozen whichever is higher	31	*	...
	(iii) not over 8½ inches in diameter					
59 (6)	COVERED CIGARETTES for glass making	1 [Revenue]	25 per cent <i>ad valorem</i>	41	*	...
60	GLASS and GLASS WARE not otherwise specified, and lacquered ware.	Revenue	25 per cent <i>ad valorem</i>	...	...	...
(1)	GLASS GLOBES and CHIMNEYS for lamps and lanterns—					
	(a) Globes for hurricane lanterns	Revenue	25 per cent <i>ad valorem</i> or four annas and six pies per dozen, whichever is higher	...	...	...
	(b) Other globes and chimneys having an external base diameter of over one inch	Revenue	25 per cent <i>ad valorem</i> or three annas per dozen, whichever is higher	...	...	...
60 (2)	ELECTRIC LIGHTING BULBS	1 [Revenue]	50 per cent <i>ad valorem</i>	5*	*	...
60 (3)	GLASS BANGLES, GLASS BEADS and false pearls	Revenue	50 per cent <i>ad valorem</i> .	...	...	...

## SECTION XIV.

REAL PEARLS PRECIOUS STONES, PRECIOUS METALS AND WARES OF THOSE MATERIALS; COIN (SPECIE).

61	PRECIOUS STONES, unset and imported, uncut, and Pearls, unset.		Free	...	...	...
----	--	--	------	-----	-----	-----

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue".

<sup>2</sup> Subs., *ibid*, for "80".

<sup>3</sup> The words and figure "20 per cent. *ad valorem*" rep., *ibid*.

<sup>4</sup> The words "15 per cent. *ad valorem*" rep., *ibid*.

<sup>5</sup> The words and figure "40 per cent *ad valorem*" rep., *ibid*.

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
61 (1)	PRECIOUS STONES, unset and imported cut	Revenue	25 per cent <i>ad valorem</i>	.	.	..
61 (2)	SILVER BUILLION and SILVER SHEETS and PLATES which have undergone no process of manufacture subsequent to rolling	Revenue	1½ [Eight annas per ounce]	.	.	
61 (3)	GOLD BUILLION and GOLD SHEETS and PLATES which have undergone no process of manufacture subsequent to rolling	2 [Revenue]	5 [Rs 25 per tola of 180 grains fine]			
61 (4)	SILVER PLATE and SILVER MANUFACTURES all sorts not otherwise specified	Revenue	60 per cent <i>ad valorem</i>	.	.	..
61 (5)	SILVER THREAD and WIRE (including so called gold thread and wire mainly made of silver) and silver leaf including also imitation gold and silver thread and wire, lametta and metallic spangles and articles of a like nature of whatever metal made.	Protective	62½ per cent <i>ad valorem</i>			March 31st 4 [1949]
61 (6)	GOLD PLATE and GOLD MANUFACTURES all sorts not otherwise specified	Revenue	50 per cent <i>ad valorem</i>			..
61 (7)	GOLD or GILDED FINISHES	5 [Revenue]	50 per cent <i>ad valorem</i>	6* * *		...

<sup>1</sup> Subs. by the Indian Finance Act, 1946 (7 of 1946), s. 6 for 'Three annas per ounce' which had been subs. for the original words 'Two annas per ounce' by the Indian Finance Act, 1937

<sup>2</sup> Ins. by Act 7 of 1946, s. 6

<sup>3</sup> Subs., *ibid.*, for "Free"

<sup>4</sup> Subs. by the Protective Duties Continuation Act, 1948 (18 of 1948) s. 2 for '1948'. The original date was "March 31st 1941". The figure '1941' had been changed into "1942", "1944", 1946, 1947 and 1948 by Acts 8 of 1941, 11 of 1942, 13 of 1944, 16 of 1946 and 25 of 1947, respectively

<sup>5</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue".

<sup>6</sup> The words and figure "40 per cent *ad valorem*" rep., *ibid.*

Item No.	Name of article	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
61 (8)	ARTICLES other than cutlery and surgical instruments, PLATED WITH GOLD OR SILVER	Revenue	50 per cent <i>ad valorem</i> .	...	...	..
61 (9)	CUTLERY WITH GOLD OR SILVER.	PLATED 1[Revenue]	50 per cent <i>ad valorem</i> .	2* * *	...	..
61 (10)	JEWELLERY and JEWELS	Revenue	50 per cent. <i>ad valorem</i>	...	..	..
52	CURRENT COIN of the Government of India.	..	Free	..	..	...
62 (1)	SILVER COIN, not otherwise specified	Revenue	3[Eight annas per ounce]	..	..	...
62 (2)	GOLD COIN.	4[Revenue]	5[Rs 25 per tola of 180 grains fine]	..	..	..

## SECTION XV.

## BASE METALS AND ARTICLES MADE THEREFROM

63	IRON OR STEEL.	Revenue	15 5/8 per cent <i>ad valorem</i> .	...	..	..
63 (1)	IRON ALLOYS viz. ferro-manganese, ferro-silicon, ferro-chrome, spiegel-eisen and the like as commonly used for steel making	1[Revenue]	6[15-5/8 per cent <i>ad valorem</i> .	7* * *	..	..

1 Subs by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue"

2 The words and figure "40 per cent *ad valorem*" rep., *ibid*

3 Subs by the Indian Finance Act, 1946 (7 of 1946), s. 6 for "Three annas per ounce" which had been subs. for the original words "Two annas per ounce" by the Indian Finance Act, 1937, s. 4.

4 Ins. by Act 7 of 1946, s. 6

5 Subs., *ibid* for "Free".

6 Subs by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "20"

7 The words and figure "10 per cent *ad valorem*" rep., *ibid*.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
63 (2)	IRON or STEEL angle, channel, tee, flat, <sup>1</sup> [(other than alloy, tool or special steel specified in Item No. 63(30))] beam, zed, trough and piling— (a) not fabricated—					
	(i) of British manufacture, —not coated with other metals.	2[Revenue]	1 1/3 times the excise duty leviable for the time being on steel ingots produced in <sup>3</sup> [the Provinces]; or 10 per cent. <i>ad valorem</i> which ever is higher.	...	...	4* * *
	coated with other metals.	2[Revenue]	1 1/3 times the excise duty leviable for the time being on steel ingots produced in <sup>3</sup> [the Provinces]; or 10 per cent. <i>ad valorem</i> which ever is higher.	...	...	4* * *
	(ii) not of British manufacture	2[Revenue]	1 1/3 times the excise duty leviable for the time being on steel ingots produced in <sup>3</sup> [the provinces] <i>plus</i> Rs. 13 per ton.	...	...	4* * *

<sup>1</sup> Subs. by the Protective Duties Continuation Act, 1948 (18 of 1948), s. 2 for "(other than alloy, tool or special Steel)" which had been inserted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

<sup>2</sup> Subs. by Act 25 of 1947, s. 2, for "Protective".

<sup>3</sup> Subs. by the A.O. 1948 for "British India".

<sup>4</sup> The word and figures "March 31st 1947" rep. by Act 25 of 1947, s. 2. The original date was "March 31st, 1941". The figure "1941" had been changed into "1942", "1944" "1946" and "1947" by Acts 8 of 1941, 11 of 1942, 13 of 1944, and 16 of 1946, respectively.



Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
63 (2)— Contd.	IRON or STEEL angle, channel, tee, flat, beam, zed, trough and piling— contd.					
	(h) fabricated					
	(i) of British manufacture.	<sup>1</sup> [Revenue]	1 1/2 times the excise duty leviable for the time being on steel ingots produced in <sup>2</sup> [the Provinces] plus Rs. 40 per ton.	..	...	3 * * *
	(ii) not of British manufacture.	<sup>1</sup> [Revenue]	1 1/2 times the excise duty leviable for the time being on steel ingots produced in <sup>2</sup> [the Provinces] plus Rs. 40 per ton.	...	...	3 * * *
63 (3)	IRON or STEEL <sup>4</sup> [other than alloy, tool or special steel specified in Item No. 63(30)] BAR and ROD—					
	(i) of British manufacture	<sup>1</sup> [Revenue]	1-1/3 times the excise duty leviable for the time being on steel ingots produced in <sup>2</sup> [the Provinces] plus Rs. 10 per ton; or 10 per cent. <i>ad valorem</i> whichever is higher	..	...	3 * * *
	(ii) not of British manufacture	<sup>1</sup> [Revenue]	1-1/3 times the excise duty leviable for the time being on steel ingots produced in <sup>2</sup> [the Provinces] plus Rs. 30 per ton; or 20 per cent. <i>ad valorem</i> whichever is higher.	...	...	3 * * *

<sup>1</sup> Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2 for "Protective."

<sup>2</sup> Subs. by the A.O. 1948 for "British India".

<sup>3</sup> The word and figures "March 31st, 1947" rep., by Act 25 of 1947, s. 2. The original date was "March 31st, 1941". The figure "1941" had been changed into "1942", "1944", "1946" and "1947" by Acts 8 of 1941, 11 of 1942, 13 of 1944 and 16 of 1946, respectively.

<sup>4</sup> Subs. by the Protective Duties Continuation Act, 1948 (18 of 1948) for "(other than alloy, tool or special Steel)" which had been inserted by Act 25 of 1947, s. 2.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
63 (4)	IRON, pig.	1[Revenue]	2[15 5/8] per cent. <i>ad valorem</i> .	3* * *	...	...
63 (5)	IRON RICE BOWLS	1[Revenue]	2[15 5/8] per cent. <i>ad valorem</i> .	3* * *	...	...
63 (6)	CAST IRON PIPES AND TUBES: also cast iron fittings therefor, that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks and the like—					
	(i) of British manufacture.	4[Revenue]	10 per cent. <i>ad valorem</i>	...	...	5* * *
	(ii) not of British manufacture.	4[Revenue]	R- 57.8 per ton.	...	...	5* * *
63 (7)	CAST IRON PLATES.	1[Revenue]	2[15.5.8] per cent. <i>ad valorem</i> .	3* * *	...	...
63 (8)	STEEL INGOTS, IRON or STEEL blooms, billets and slabs, provided that no piece less than 1½ inches square or thick shall be included in this item.	1[Revenue]	The excise duty leviable for the time being on steel ingots produced in 6[provinces]: or 2[15 5/8] per cent <i>ad valorem</i> , whichever is higher.	6* * *	...	...

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1930, s. 3 for "Preferential revenue".

<sup>2</sup> Subs. *ibid*, for "20".

<sup>3</sup> The words and figure "10 per cent. *ad valorem*" rep. *ibid*.

<sup>4</sup> Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2 for "Protective".

<sup>5</sup> The word and figures "March 31st, 1947" rep. *ibid*. The original date was "March 31st, 1941". The figure "1941" had been changed into "1942", "1944", "1946" and "1947" by Acts 8 of 1941, 11 of 1942, 13 of 1944 and 16 of 1946, respectively.

<sup>6</sup> Subs. by the A. O. 1948 for "British India".

<sup>7</sup> The words "The excise duty leviable for the time being on steel ingots produced in British India: or 10 per cent. *ad valorem* whichever is higher" rep. by the Indian Tariff (Third Amendment) Act, 1930, s. 3.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
63 (9)	IRON or STEEL STRUCTURES fabricated partially or wholly, not otherwise specified, if made mainly or wholly of iron or steel bars, sections, plates or sheets, for the construction of buildings, bridges, tanks, well curbs, trestles, towers and similar structures or for parts thereof, but not including builders' hardware or any of the articles specified in Item Nos. 72, 72(3), 74(1), 75(3), 75(4) or 76(1) —					
	(a) of British manufacture.	<sup>1</sup> [Revenue]	1½ times the excise duty leviable for the time being on steel ingots produced in <sup>2</sup> [the 'Provinces'] plus Rs. 40 per ton.	...	...	3 * * *
	(b) not of British manufacture.	<sup>1</sup> [Revenue]	1½ times the excise duty leviable for the time being on steel ingots produced in <sup>3</sup> [the provinces] plus Rs. 40 per ton.	...	...	3 * * *
63 (10)	STEEL, tinplates and tinned sheets, including tin taggers, and cuttings of such plates, sheets or taggers—					

<sup>1</sup> Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2 for "Protective".

<sup>2</sup> Subs. by the A. O. 1948 for "British India".

<sup>3</sup> The word and figures "March 31st, 1947" rep. by Act 25 of 1947. The original date was "March 31st, 1911". The figure "1941" had been changed into "1942", "1944", "1946" and 1947 by Acts 8 of 1911, 11 of 1912, 13 of 1914 and 16 of 1946, respectively.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
63 (10) — Contd.	(i) of British manufacture.	1[Revenue]	1½ times the excise duty leviable for the time being on steel ingots produced in 2[the Provinces] plus Rs. 38 per ton.	...	...	3* * *
	(ii) not of British manufacture.	1[Revenue]	1½ times the excise duty leviable for the time being on steel ingots produced in 2[the Provinces] plus Rs. 59 per ton.	...	...	3* * *
63(11)	IRON OR STEEL ANCHORS AND CABLES.	4[Revenue]	5[15 5/8] per cent. <i>ad valorem</i> .	6* * *	...	...
63(12)	A. IRON OR STEEL BOLTS AND NUTS, including hook-bolts and nuts for roofing but excluding fish bolts and nuts—					
	(i) of British manufacture.	1[Revenue]	1½ times the excise duty leviable for the time being on steel ingots produced in British India; or 10 per cent. <i>ad valorem</i> whichever is higher.	...	...	3* * *
	(ii) not of British manufacture.	1[Revenue]	1½ times the excise duty leviable for the time being on steel ingots produced in British India plus Rs. 1-9-0 per cwt.	...	...	3* * *

1 Subs. by the Indian Tariff (Amendment) Act, 1917 (25 of 1917), s. 2 for "Protective".

2 Subs. by the A.O. 1948 for "British India".

3 The word and figures "March 31st, 1947" rep., by Act 25 of 1947, s. 2. The original date was "March 31st, 1941". The figure "1941" had been changed into "1942", "1944", "1946" and "1947" by Acts 8 of 1941, 11 of 1942, 13 of 1944 and 16 of 1946, respectively.

4 Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue".

5 Subs. *ibid* for "20".

6 The words and figure "10 per cent *ad valorem*" rep., *ibid*.

Item no.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of—		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
63 (12)— Contd.	IRON OR STEEL SHEET, BOLTS AND NUTS—					
	(i) of British manufacture.	1[Revenue]	1½ times the ex-cise duty leviable for the time being on steel in 20s. produced in 2[the Provinces] or 10 per cent <i>ad valorem</i> which ever is higher	...	...	3* * *
	(ii) not of British manufacture.	1[Revenue]	1½ times the ex-cise duty leviable for the time being on steel in 20s. produced in 2[the Provinces] plus Rs. 150 per cwt.	..	..	3* * *
63(13)	IRON OR STEEL EXPANDED METAL.	4[Revenue]	5[175/8] per cent <i>ad valorem</i>	6	..	.
63(14)	IRON OR STEEL ROOPS AND STRIPS	Preferential revenue	20 per cent <i>ad valorem</i>	10 per cent <i>ad valorem</i>	..	...
63 (15)	IRON OR STEEL RIVETS—					
	(i) of British manufacture	1[Revenue]	1½ times the ex-cise duty leviable for the time being on steel in 20s. produced in 2[the Provinces] or 10 per cent <i>ad valorem</i> which ever is higher	...	..	3* * *
	(ii) not of British manufacture	2[Revenue]	1½ times the ex-cise duty leviable for the time being on steel in 20s. produced in 2[the Provinces] plus Rs. 110 per cwt.	...	...	3

1 Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2 for "Protective".

2 Subs. by the A.O. 1948 for "British India".

3 The word and figures "March 31st, 1947" rep. by Act 25 of 1947, s. 2. The original date was "March 31st, 1941". The figure "1941" had been changed into "1942", "1944", "1946" and "1947" by Acts 8 of 1941, 11 of 1942, 13 of 1944 and 16 of 1946, respectively.

4 Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue".

5 Subs. *ibid.* for "20"

6 The words and figure "10 per cent. *ad valorem*" rep. *ibid.*

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
63(16)	IRON or STEEL NAILS and WASHERS, all sorts not otherwise specified.	1[Revenue]	2[15 5/8] per cent. <i>ad valorem</i> .	5* * *	...	...
63(17)	IRON or STEEL PIPES AND TUBES and fitting therefor, if riveted or otherwise built up of plates or sheets—					
	(i) of British manufacture.	4[Revenue]	1 1/2 times the excise duty leviable for the time being on steel ingots produced in 5[the Provinces] plus Rs. 12 per ton; or 10 per cent. <i>ad valorem</i> whichever is higher.	...	...	6* * *
	(ii) not of British manufacture.	4[Revenue].	1 1/2 times the excise duty leviable for the time being on steel ingots produced in 5[the Provinces] plus Rs. 35 per ton.	...	...	6* * *
63(18)	IRON or STEEL pipes and tubes also fittings therefor that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks, and the like, excluding pipes, tubes and fittings therefor otherwise specified.	1[Revenue]	2[15 5/8] per cent. <i>ad valorem</i> .	3* * *	...	...

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939 s. 3 for "Preferential revenue".

<sup>2</sup> Subs., *ibid.* for "20".

<sup>3</sup> The words and figure "10 per cent *ad valorem*" rep., *ibid.*

<sup>4</sup> Subs. by the Indian Tariff (Amendment) Act, 1917 (25 of 1917) for "Protective".

<sup>5</sup> Subs. by the A.O. 1948 for "British India".

<sup>6</sup> The word and figures "March 31st, 1947" rep. by Act 25 of 1947. The original date was "March 31st, 1941". The figure "1941" had been changed into "1942", "1944", "1946" and "1947" by Acts 8 of 1941, 11 of 1942, 13 of 1944 and 16 of 1946, respectively.

Item No.	Name of article	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
63(19)	IRON or STEEL plates excluding cast iron plates—					
	(a) not fabricated—					
	(i) of British manufacture not coated with other metals.	1[Revenue]	1 1/3 times the excise duty leviable for the time being on steel ingots produced in 2[the Provinces]; or 10 per cent. <i>ad valorem</i> which ever is higher	...	..	3* * *
	coated with other metals.	1[Revenue]	1 1/3 times the excise duty leviable for the time being on steel ingots produced in 2[the Provinces]; or 10 per cent. <i>ad valorem</i> which ever is higher	.	..	3* * *
	(ii) not of British manufacture	1[Revenue]	1 1/3 times the excise duty leviable for the time being on steel ingots produced in 2[the Provinces] plus Rs. 25 per ton	..	..	3* * *
	(b) fabricated—					
	(i) of British manufacture	1[Revenue]	1 1/2 times the excise duty leviable for the time being on steel ingots produced in 2[the Provinces] plus Rs. 40 per ton.	...	...	3* * *
	(ii) not of British manufacture.	1[Revenue]	1 1/2 times the excise duty leviable for the time being on steel ingots produced in 2[the Provinces] plus Rs. 40 per ton.	...	...	3* * *

<sup>1</sup> Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2 for "Protective".

<sup>2</sup> Subs. by the A.O. 1948 for "British India".

<sup>3</sup> The word and figures "March 31st, 1947" rep. by Act 25 of 1947. The original figure was "March 31st, 1941. The figure "1941" had been changed into "1942", "1944", "1946" and "1947" by Acts 8 of 1941, 11 of 1942, 13 of 1944 and 16 of 1946, respectively.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
33(20)	IRON or STEEL SHEETS 1[other than high silicon electrical steel sheets]—					
	(a) not fabricated—					
	(1) not galvanized—					
	(i) of British manufacture.	2[Revenue]	1-1/3 times the excise duty leviable for the time being on steel ingots produced in 3[the Provinces] plus Rs. 11 per ton; or 10 per cent. <i>ad valorem</i> , whichever is higher.	...	...	4* * *
	(ii) not of British manufacture.	2[Revenue]	1-1/3 times the excise duty leviable for the time being on steel ingots produced in 3[the Provinces] plus Rs. 32 per ton.	...	...	4* * *
	(2) galvanized—					
	(i) of British manufacture.	2[Revenue]	1-1/3 times the excise duty leviable for the time being on steel ingots produced in 3[the Provinces] plus Rs. 10 per ton; or 10 per cent. <i>ad valorem</i> , whichever is higher.	...	...	4* * *
	(ii) not of British manufacture.	2[Revenue]	1-1/3 times the excise duty leviable for the time being on steel ingots produced in 3[the Provinces] plus Rs. 40 per ton.	...	...	4* * *

<sup>1</sup> Ins. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947) s. 2.

<sup>2</sup> Subs. *ibid*, for "Protective".

<sup>3</sup> Subs. by the A.O. 1948 for "British India".

<sup>4</sup> The word and figures "March 31st, 1947" rep., by Act 25 of 1947. The original date was "March 31st, 1941". The figure "1941" had been changed into "1942", "1944", "1946" and "1947" by Acts 8 of 1941, 11 of 1942, 13 of 1944 and 16 of 1946, respectively.



Item No.	Name of article	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
63 (20) — Contd	IRON OR STEEL SHEETS— <i>contd</i> (h) fabricated— (1) not galvanized (i) of British manufacture	1[Revenue]	1 1/2 times the ex-cise duty leviable for the time being on steel in not produced in 2[the Provinces] plus Rs 12 per ton, or 10 per cent <i>ad valorem</i> whichever is higher	..		3* * *
	(n) not of British manufacture	1[Revenue]	1 1/2 times the ex-cise duty leviable for the time being on steel in not produced in 2[the Provinces] plus Rs 5 per ton	.		3* * *
	(2) galvanized— (i) of British manufacture	1[Revenue]	1 1/2 times the ex-cise duty leviable for the time being on steel in not produced in 2[the Provinces] plus Rs 11 per ton or 10 per cent <i>ad valorem</i> whichever is higher	.		3* * *
	(n) not of British manufacture	1[Revenue]	1 1/2 times the ex-cise duty leviable for the time being on steel in not produced in 2[the Provinces] plus Rs 44 per ton	...		7* * *
63 (21)	IRON OR STEEL RAILWAY TRACK MATERIAL— A Rails (including tramway rails the heads of which are not grooved) — (a) 30 lbs per yard and over and fishplates therefor—					

<sup>1</sup> Subs by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s 2 for "Protective".

<sup>2</sup> Subs by the A.O. 1948 for "British India".

<sup>3</sup> The word and figures "March 31st 1917" rep. by Act 25 of 1947. The original date was "March 31st, 1911". The figure "1941" had been changed into "1942", "1943", "1946" and "1947" by Acts 8 of 1941, 11 of 1942 19 of 1944 and 16 of 1946, respectively.

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
63 (21)— Contd	IRON or STEEL RAILWAY TRACK MATERIAL contd					
		(i) of British manufacture	1 1/3 times the excise duty leviable for the time being on steel in rolls produced in [the Provinces] or 10 per cent <i>ad valorem</i> which ever is higher			3*
		(ii) not of British manufacture	1 1/3 times the excise duty leviable for the time being on steel in rolls produced in [the Provinces] or 20 per cent <i>ad valorem</i> which ever is higher			3*
	(b) under 30 lbs. per yard and fish plates therefor -					
		(i) of British manufacture	1 1/3 times the excise duty leviable for the time being on steel in rolls produced in [the Provinces] plus Rs 10 per ton or 10 per cent <i>ad valorem</i> whichever is higher			3* . .
		(ii) not of British manufacture	1 1/3 times the excise duty leviable for the time being on steel in rolls produced in [the Provinces] plus Rs 39 per ton			3* . .

<sup>1</sup> Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947, s. 2 for "Protective".

<sup>2</sup> Subs. by the A.O. 1948 for "British India"

<sup>3</sup> The word and figures "March 31st 1947" rep. by Act 25 of 1947. The original date was March 31st 1941. The figure "1941" had been changed into "1942", "1944", "1946" and 1947 by Acts 5 of 1941, 11 of 1942, 13 of 1944 and 16 of 1946, respectively.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
63 (21)— Contd	IRON OR STEEL RAILWAY TRACK MATERIAL— <i>contd.</i>					
	B. Switches and crossings including stretcher bars and other component parts, and switches and crossings including stretcher bars and other component parts for tramway rails the heads of which are not grooved—					
	(a) for rails 30 lbs. per yard and over—	1[Revenue]	1 1/2 times the excise duty leviable for the time being on steel ingots produced in 2[the Provinces]; or 10 per cent. <i>ad valorem</i> , whichever is higher.	...	...	3* * *
	(i) of British manufacture.					
	(ii) not of British manufacture.	1[Revenue]	1 1/2 times the excise duty leviable for the time being on steel ingots produced in 2[the Provinces]; or 20 per cent. <i>ad valorem</i> , whichever is higher.	...	...	3* *
	(b) for rails under 30 lbs. per yard—					
	(i) of British manufacture.	1[Revenue]	1 1/2 times the excise duty leviable for the time being on steel ingots produced in 2[the Provinces] plus Rs. 11 per ton; or 10 per cent. <i>ad valorem</i> , whichever is higher.	...	...	3* *

1 Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2 for "Protective".

2 Subs. by the A.O. 1948 for "British India".

3 The word and figures "March 31st, 1947" rep., by Act 25 of 1947. The original date was "March 31st, 1941". The figure "1941" had been changed into "1942", "1944", "1946" and "1947" by Acts 8 of 1941, 11 of 1942, 13 of 1944 and 16 of 1946, respectively.

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
63 (21)-- Contd	IRON or STEEL RAILWAY TRACK MATERIAL contd					
	(a) not of British manufacture	<sup>1</sup> [Revenue]	11 2 times the ex-cise duty leviable for the time being on steel rails produced in <sup>2</sup> [the Provinces] plus Rs 43 per ton	...	...	3* * *
	(b) of British manufacture	<sup>1</sup> [Revenue]	11 1 time the ex-cise duty leviable for the time being on steel rails produced in <sup>2</sup> [the Provinces] or 10 per cent <i>ad valorem</i> whichever is higher			3* * *
	(a) not of British manufacture	<sup>1</sup> [Revenue]	11 1 times the ex-cise duty leviable for the time being on steel rails produced in <sup>2</sup> [the Provinces] or 20 per cent <i>ad valorem</i> whichever is higher			3* * *
	(b) of British manufacture	<sup>1</sup> [Revenue]	11 3 times the ex-cise duty leviable for the time being on steel rails produced in <sup>2</sup> [the Provinces] plus Rs 10 per ton, or 10 per cent <i>ad valorem</i> , whichever is higher			3* * *

<sup>1</sup> Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s 2 for "Protective".

<sup>2</sup> Subs. by the A.O. 1948 for "British India".

<sup>3</sup> The word and figures "March 31st 1947" rep. Act 25 of 1947 s 2 The original date was "March 31st 1941". The figure 1941 had been changed into "1942", "1944", "1946" and "1947" by Act of 1941 11 of 1942, 15 of 1944 and 16 of 1946, respectively.

Item No.	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
<b>63</b> <b>(21)—</b> <b>Contd</b>	IRON or STEEL RAILWAY TRACK MATERIAL contd					
	(n) not of British manufacture	<sup>1</sup> [Revenue]	11 3 times the ex-cise duty leviable for the time being on steel ingots produced in <sup>2</sup> [the Provinces] plus Rs 39 per ton			* * *
	L Dogspikes— (n) of British manufacture	<sup>1</sup> [Revenue]	11 2 times the ex-cise duty leviable for the time being on steel ingots produced in <sup>2</sup> [the Provinces] plus 7 annas per cwt. or 10 per cent <i>ad valorem</i> whichever is higher			* * *
	(n) not of British manufacture	<sup>1</sup> [Revenue]	11 2 times the ex-cise duty leviable for the time being on steel ingots produced in <sup>2</sup> [the Provinces] plus Rs 215.0 per cwt			* *
	L Gibs, cotter keys (including tapered keybars), distance pieces and other fastenings for use with iron or steel sleepers— (n) of British manufacture	<sup>1</sup> [Revenue]	11 2 times the ex-cise duty leviable for the time being on steel ingots produced in <sup>2</sup> [the Provinces] plus 7 annas per cwt. or 10 per cent <i>ad valorem</i> whichever is higher			* * *

<sup>1</sup> Subs. by the Indian Tariff (Amendment) Act 1917 (25 of 1917), s. 2 for "Protective".

<sup>2</sup> Subs. by the A.O. 1948 for "British India".

<sup>3</sup> The word and figures "March 31st 1947" in Act 25 of 1917 s. 2. The original date was March 31st 1941. The figure 1941 had been changed into 1942, "1941", "1946" and "1947" by Acts 8 of 1941, 11 of 1942, 13 of 1944 and 16 of 1946 respectively.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
63(21)— out d	IRON or STEEL RAILWAY TRACK MATERIAL—concl'd.					
	(or not of British manufacture)	1[Revenue]	1½ times the existing duty leviable for the time being on steel ingots produced in 2[the Provinces] plus Rs. 2.50 per cwt.	...	...	3* * *
63(22)	IRON or STEEL RAILWAY TRACK MATERIALS not otherwise specified including bearing plates, cast iron sleepers and lever boxes.	4[Revenue]	5[15.5/8] per cent <i>ad valorem</i>	6* * *	...	...
63(23)	IRON or STEEL TRAMWAY TRACK MATERIALS not otherwise specified, including rails, fishplates, tie bars, switches, crossings and the like materials of shapes and sizes specially adapted for tramway tracks.	4[Revenue]	5[15.5/8] per cent <i>ad valorem</i> .	6* * *	...	...
63(24)	IRON or STEEL BARBED or STRANDED WIRE and wire rope.	Preferential revenue.	20 per cent. <i>ad valorem</i>	10 per cent <i>ad valorem</i> .	...	...

1 Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2 for "Protective".

2 Subs. by the A.O. 1948 for "British India".

3 The word and figures "March 31st, 1947" rep., Act 25 of 1947, s. 2. The original date was "March 31st, 1941". The figure "1941" had been changed into "1942", "1944", "1946" and "1947" by Acts 8 of 1941, 11 of 1942, 13 of 1944 and 16 of 1946, respectively.

4 Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue".

5 Subs. *ibid.* for "20".

6 The words and figure "10 per cent *ad valorem*" rep., *ibid.*

Item No.	Name of article	Nature of duty	Structure of duty	Preferential rate of duty at the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
63(25)	IRON or STEEL wire other than 1[high carbon or spring steel wire] barbed or stranded wire rope or wire netting and iron or steel wire nails— (i) of British manufacture	2[Revenue]	1 1/2 times the ex-manufacture duty leviable for the time being on steel wires produced in 2[the Provinces] plus Rs 25 per ton	.	.	4* * *
			1 1/2 times the ex-manufacture duty leviable for the time being on steel wires produced in 2[the Provinces] plus P 60 per ton	.	...	4* * *
63(26)	IRON or STEEL (other than bar or rod) specially designed for the reinforcement of concrete	5[Revenue]	6[1-5 S] 100 cent ad valorem	7* * *	...	...
63(27)	IRON or STEEL the original material (but not including machinery) of any ship or other vessel intended for inland or harbour navigation which has been assembled abroad, taken to pieces and shipped for re-assembly in India—					

<sup>1</sup> Ins. by the Indian Tariff (Amendment) Act 1917 (25 of 1917) s. 2

<sup>2</sup> Subs. *ibid.* for 'Protective'

<sup>3</sup> Subs. by the A.O. 1918 for 'British India'

<sup>4</sup> The word and figures 'March 31st 1917' rep. Act 25 of 1917 s. 2. The original date was 'March 31st 1941'. The figure '1941' had been changed into '1942', '1944', '1946' and '1947' by Acts 9 of 1941, 11 of 1942, 13 of 1944 and 16 of 1946 respectively.

<sup>5</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939 s. 3 for 'Preferential revenue'

<sup>6</sup> Subs. *ibid.* for "20"

<sup>7</sup> The word and figures "10 per cent *ad valorem*" rep. *ibid.*

Item No.	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
63 (27) Contd	Iron or steel (Contd)					
	(a) of British manufacture	[Revenue]	11 2 times the existing duty leviable for the time being on steel made or produced in [the Provinces] or 10 per cent <i>ad valorem</i> whichever is higher			3* * *
	(b) of British manufacture	[Revenue]	11 2 times the existing duty leviable for the time being on steel made or produced in [the Provinces] plus Rs 27 80 per ton or 20 per cent <i>ad valorem</i> whichever is higher			3 * * *
	Provided that nothing in this item shall apply to iron or steel imported from any other country					
63(28)	Articles of iron and steel in manufacture thereof or otherwise specified	[Revenue]	7 [25] per cent <i>ad valorem</i>	6 * *		...
63(29)	Ironware of the following description					
	(i) Stools	[Revenue]	7 [25] per cent <i>ad valorem</i> or four and a half annas per square foot whichever is higher	6 * *		...

<sup>1</sup> Subs. by the Indian Tariff (Amendment) Act 1917 (25 of 1917) s. 2 for "Protective"

<sup>2</sup> Subs. by the A.O. 1918 for "British India"

<sup>3</sup> The word "and" in s. 2 of the Act 25 of 1917 s. 3. The original date was March 11 1911. The figure 1911 had been changed into "1912" "1944", 1916 and 1917 by Acts 5 of 1941 11 of 1942 13 of 1944 and 16 of 1946 respectively.

<sup>4</sup> Subs. by the Indian Tariff (Third Amendment) Act 1939 s. 3 for "Preferential Revenue"

<sup>5</sup> Subs. by the Indian Tariff (Fourth Amendment) Act, 1939 s. 3 for "90"

<sup>6</sup> The words "and figure 20 per cent *ad valorem*" rep. *ibid.*



Item No.	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
63 (29) Contd	UNGLAZED CERAMIC WARE, the following, namely: (a) Domestic hollowware, the following, namely: basins, bowls, dishes, plates and thalass, including rice-cup, rice-bowls and rice-plates— (i) having no diameter exceeding 19 centimetres  (ii) having any diameter exceeding 19 centimetres	1[Revenue]	2[25] per cent <i>ad valorem</i> or per dozen four annas plus one anna for every two centimetres or part thereof by which any diameter exceeds 11 centimetres whichever is higher	3* * *		
		1[Revenue]	2[25] per cent <i>ad valorem</i> or per dozen eight annas plus two annas for every two centimetres or part thereof by which any diameter exceeds 19 centimetres whichever is higher	3* * *		

63(30) Roll or bar of alloy steel or special steel of the following categories, but excluding pipe or round and polished bars, bright drawn bars, blue rolled bars and silver steel finish bars:

- (1) High speed steel containing more than 13 per cent tungsten
- (2) Stainless and heat resisting steel containing more than 11 per cent chromium.
- (3) Other alloy steel not included in category (1) or (2) containing any of the following:—
  - (a) 0.40 per cent or more of chromium or nickel;
  - (b) 0.10 per cent or more of molybdenum, tungsten or vanadium; or
  - (c) 10.00 per cent or more of manganese

- (a) of British Manufacture Protective 30% *ad val* March 31st 1940
- (b) not of British Manufacture Protective 42% *ad val* March 31st 1949 ]

1 Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue"

2 Subs. *ibid* for "30"

3 The words and figure "20 per cent *ad valorem*" rep. *ibid*

4 Subs. by the Protective Duties Continuation Act 1948 (18 of 1948) s. 2 for Item 63(30) inserted by the Indian Tariff (Amendment) Act 1947 (25 of 1947), s. 2

Item No	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce of manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
167 (31)	HIGH SPEED ELECTRICAL STEEL SHEETS— (a) of British manufacture.	Protective	11 1/2 times the ex-cise duty leviable for the time being on steel ingots produced in 2 [the Provinces] plus Rs 11 per ton or 10 per cent <i>ad valorem</i> , whichever is higher, plus one fifth of such balance amount			March 31st 1948
	(b) not of British manufacture.	Protective	11 1/2 times the ex-cise duty leviable for the time being on steel ingots produced in 2 [the Provinces] plus Rs 32 per ton plus one fifth of the total of such amount			March 31st 1948
63 (32)	HIGH CARBON or STRING STEEL WIRE (a) of British manufacture.	Protective	11 1/2 times the ex-cise duty leviable for the time being on steel ingots produced in 2 [the Provinces] plus Rs 25 per ton plus one fifth of the total of such amounts			March 31st. 1948
	(b) not of British manufacture.	Protective	11 1/2 times the ex-cise duty leviable for the time being on steel ingots produced in 2 [the Provinces] plus Rs 60 per ton plus one fifth of the total of such amounts			March 31st 1948
63 (33)	IRON or STEEL WOODSCREWS	Protective	30 per cent <i>ad valorem</i>			March 31st. 1950 ]

1 Ins. by the Indian Tariff (Amendment) Act, 1947 (2) of 1947

2 Sub. by the A.O. 1948 for British India

Item No.	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rate of duty.
				The United Kingdom	A British Colony	
64	Copper wrought and manufactures of copper all sorts not otherwise specified	<sup>1</sup> [Revenue]	10 per cent <i>ad valorem</i>	2 * *	* ..	..
64 (1)	Copper sheet	Revenue	25 per cent <i>ad valorem</i>	..		.
65	German silver including nickel silver	<sup>1</sup> [Revenue]	3[25] per cent <i>ad valorem</i>	2 * *	.	.
66	Aluminium wire, sheets and other manufactures not otherwise specified	<sup>1</sup> [Revenue]	3[25] per cent <i>ad valorem</i>	2 * *		.
66 (1)	Aluminium wire, sheets, block and bar of Aluminium	Revenue	25 per cent <i>ad valorem</i>			
67	Lead wrought in the following articles, namely: pipes and tubes and sheets other than sheets for tea chests	<sup>1</sup> [Revenue]	<sup>2</sup> [25] per cent <i>ad valorem</i>	2 *		
67 (1)	Lead sheets for tea chests	Revenue	25 per cent <i>ad valorem</i>			
68	Zinc or Spelter wrought or manufactured not otherwise specified	<sup>1</sup> [Revenue]	[25] per cent <i>ad valorem</i>	* *		
68 (1)	Zinc unwrought including cakes, ingots, tiles (other than boiler tiles), hard or soft, lumps and plates, dust, dross and ashes and broken zinc					
69	Lime, Bricks	Revenue	15, 125 per cent			.
70	Brass, bronze and similar alloys wrought and manufactures thereof not otherwise specified	<sup>1</sup> [Revenue]	3[25] per cent <i>ad valorem</i>	* *	.	..

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939 s. 3 for "Preferential revenue"

<sup>2</sup> The words and figure "20 per cent *ad valorem*" replaced

<sup>3</sup> Subs., *ibid* for "30"

Item No.	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
70 (1)	All gold or metal other than non-ferrous metal and manufactures thereof not otherwise specified	Revenue	2½ per cent <i>ad valorem</i>	..	...	...
70 (2)	CRUDE ANTIMONY	Protective	20 per cent <i>ad valorem</i>	..	..	March 31st, 1919
70 (3)	ANTIMONY other than crude antimony	Protective	30 per cent <i>ad valorem</i>	..	..	March 31st, 1919
71	HANDWORK in NON-FERROUS METAL and in other materials not otherwise specified including machine tools and machine tools and agricultural implements	2 [Revenue]	1 [2½] per cent <i>ad valorem</i>	4 * *	..	...
71 (1)	The following HANDWORK in NON-FERROUS METAL and in other materials not otherwise specified including machine tools and machine tools and agricultural implements	Revenue	2½ per cent <i>ad valorem</i>	..	..	...
71 (2)	Handwork in all other materials not otherwise specified	2 [Revenue]	1 [2½] per cent <i>ad valorem</i>	3 * *	..	...
71 (3)	Handwork in FURNITURE and in other materials	2 [Revenue]	1 [2½] per cent <i>ad valorem</i>	4 * *	..	...
71 (4)	PRINTING TYPE	Revenue	One anna and three pice per lb	..	..	...
71 (5)	The following HANDWORK in NON-FERROUS METAL and in other materials not otherwise specified including machine tools and machine tools and agricultural implements	Revenue	2½ per cent <i>ad valorem</i>	..	..	...

<sup>1</sup> Ins. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947) s. 2

<sup>2</sup> Sub. by the Indian Tariff (Third Amendment) Act, 1939 s. 3 for "Preferential

<sup>3</sup> Sub. *ibid.* for 30

<sup>4</sup> The word and figure '20 per cent *ad valorem*' rep., *ibid.*

Item No	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
71 (6)	RACKS for the with clasp of tea leaf	Revenue	2 1/2 per cent <i>ad valorem</i>			
<sup>1</sup> 71(7)	LUBRICANT LAMP TUBES	Protective	30 per cent <i>ad valorem</i>			March 31st 1940
<sup>2</sup> 71(8)	GRINDING WHEELS and SEGMENTS	Protective	30 per cent <i>ad valorem</i>			December 31st, 1950

## SECTION XVI.

## MACHINERY AND APPARATUS ELECTRICAL MATERIAL

72	Machinery, namely such of the following articles as are not otherwise provided for:— (a) prime movers, boilers, locomotives, engines and tenders for the same portable engines (including power driven road roller type engines and tractors) and other machines in which the prime mover is not separable from the operative parts, machines and sets of machines to be worked by electric, steam, water, fire or other power not being manual or animal labour, or in which, before being brought into use, require to be fixed with reference to other moving parts.	Revenue	10 per cent <i>ad valorem</i>	...	..	...
----	--	---------	-------------------------------	-----	----	-----

<sup>1</sup> Ins by the Indian Tariff (Amendment) Act, 1947 (2) of 1947 s. 2

<sup>2</sup> Ins by the Indian Tariff (Second Amendment) Act, 1947 (3) of 1947 s. 2

Item No	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony	
2— Contd	<p>MACHINERY, namely such of the following articles as are not otherwise specified <i>contd</i></p> <p>(c) apparatus and appliances, not to be operated by manual or animal labour which are designed for use in an industrial system as parts indispensable for its operation and have been invented for that purpose, some special shape or quality which would not be essential for their use for any other purpose—control gear, electric or otherwise, and transmission gear included for use with any machinery above specified including belt in of all materials (other than cotton hand mill in various sizes) and driving chains but excluding driving ropes not made of cotton wire, hand drawn electrolytic copper wires and cables and other electrical wires and cables insulated or not, and poles, troughs, conduits and insulators designed as parts of a transmission system, and the fittings thereof</p>					

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce of or manufactured in		Duration of protective rates of duty
				The United Kingdom	Any other country	
72— Contd	MACHINERY, namely, such of the following articles as are not otherwise specified— contd NOTE.—The term 'Industrial system' used in sub item (c) means an installation designed to be employed directly in the performance of any process or series of processes necessary for the manufacture, production or extraction of any commodity.					
72 (1)	The following TEXTILE MACHINERY and APPARATUS by whatever power operated, namely: heald cords, heald cords and heald knitting needles, reed and shuttles, warp and weft preparation machinery and looms, bobbins and pins, dobbies, Jacquard machines, [Jacquard harness linen cards], Jacquard cards, punching plates for Jacquard cards, warp mangle mills, multiple box sleys, solid border sleys, tape sleys, swivel sleys, tape looms, wool carding machines, wool spinning machines, hosiery machinery, comb and shearing machines, corrie fibre willowing machines, heald knitting machines, dobby cards; lat tices and lags for dobbies; wooden winders; silk	Revenue	10 per cent ad valorem			

1 Subs. by the Repealing and Amending Act 1937 (20 of 1937) s. 2 and Sch. I for "Jacquard harness linen cards".

Item No	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
72(1)-Contd	looms silk throw ing and reeling machines cotton yarn reeling ma- chines sizing ma- chines doubling machines silk twisting machines cone winding ma- chines printing cutting machines harness building frames card lac ing frames draw- ing and denting hooks sewing thread bolls mak- ing machines cumbli finishing machinery hank boilers cotton carding and spin- ning machines mull eyes lingoes comber boards and comber board frame take up motions temples and picks pick- in hand pick- in tread print- ing machines rol- ler cloth cleaner cloth sizing flan- nel and roller slims					
72 (2)	PRINTING AND LITHOGRAPHIC MATERIALS, namely: process lithogra- phic plates com- position sticks chase imposing table lithographic tone stereo blocks wood blocks half tone blocks [electro type blocks] process blocks and highly polished copper or zinc sheets spe- cially prepared for making process blocks roller moulds roller frames and stocks roller composition lithographic map rollers, standing	Revenue	10 per cent ad valorem			

<sup>1</sup> Subs. by the Repealing and Amending Act, 1937 (20 of 1937), s. 2 and Sch. I for "electric type blocks".



Item No.	Name of article	Nature of duty.	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
72(2)- Contd	screw and hot presses, perforating machines, gold blocking presses, galley presses, proof presses, arm presses, copper plate printing presses, rolling presses, ruling machines, ruling pen making machines, ad cutters, rule cutters, slug cutters, type casting machines, type setting and casting machines, paper in rolls with side perforations to be used after further perforation for type casting, rule bending machines, rules, mitering machine, bronze ruling machines, steotyping apparatus, paper folding machines, paging machines but excluding and paper					
2 (3)	COMPONENT PARTS of MACHINERY [If (excluding GRINDING WHEELS and SEGMENTS)] as defined in Items Nos 72 72(1) and 72 (2), namely, such parts only as are essential for the working of the machine or apparatus and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose.	Revenue	10 per cent ad valorem			

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
72 (3) (Contd.)	Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the machine to which they belong if they are essential to its operation and are imported with it in such quantities as may appear to the collector of Customs to be reasonable.					
72 (4)	PASSENGER LIFTS and component parts and accessories thereof	Revenue	2½ per cent. <i>ad valorem</i> .			
72 (5)	DOMESTIC REFRIGERATORS	Preferential revenue.	30 per cent. <i>ad valorem</i> .	20 per cent. <i>ad valorem</i>		
72 (6)	MACHINES and component parts thereof meaning machines or parts of machines to be worked by manual or animal labour, not otherwise specified, and any machines (except such as are designed to be used exclusively in industrial processes) which require for their operation less than one quarter of one brake-horse power.	[Revenue]	2[25] per cent. <i>ad valorem</i> .	3* * *		
72 (7)	WATER LIFTS, SUGAR-MILLS, sugar centrifuges, sugar pugmills, oil-presses and parts thereof, when constructed so that they can be worked by manual or animal power and pans for boiling sugar-cane juice		Free			

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Preferential revenue".

<sup>2</sup> Subs. *ibid*, for "30".

<sup>3</sup> The words and figures "20 per cent. *ad valorem*" rep., *ibid*,

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
73 (1)	The following ELECTRICAL INSTRUMENTS, APPARATUS AND APPLIANCES, namely:—  Electrical Control Gear and Transmission Gear, namely, switches (excluding switch boards), fuses and current breaking devices of all sorts and descriptions, designed for use in circuits of less than ten amperes and at a pressure not exceeding 250 volts; and regulators for use with motors designed to consume less than 187 watts; bare or insulated copper wires and cables, any one core of which, not being one specially designed as a pilot core, has a sectional area of less than one-eightieth part of a square inch, and wires and cables of other metals of not more than equivalent conductivity; and line insulators, including also cleats, connectors, leading in tubes and the like of types and sizes such as are ordinarily used in connection with the transmission of power for other than industrial purposes, and the fittings thereof but excluding electrical earthenware and porcelain otherwise specified.	Preferential	30 per cent. <i>ad valorem</i> .	<i>ad</i> 20 per cent. <i>ad valorem</i> .		

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
73 (2)	The following ELECTRICAL INSTRUMENTS, APPARATUS, AND APPLIANCES, namely, telegraphic and telephonic instruments, apparatus and appliances not otherwise specified, flash lights, carbons, condensers, and bell apparatus, and switch boards designed for use in circuits of less than ten amperes and at a pressure not exceeding 250 volts [also accumulators, batteries and electro-medical apparatus]	Revenue	25 per cent. <i>ad valorem</i> .	.....	.....	.....
73(3)	TELEGRAPHIC INSTRUMENTS AND APPARATUS and parts thereof imported by, or under the orders of, a Railway Administration.	Revenue	15 5/8 per cent. <i>ad valorem</i> .	..	..	.....
73 (4)	WIRELESS RECEPTION INSTRUMENTS AND APPARATUS and component parts thereof, including all electric valves, amplifiers and loud speakers which are not specially designed for purposes other than wireless reception or are not original parts of and imported along with instruments or apparatus so designed.	Preferential revenue.	50 per cent. <i>ad valorem</i> .	40 per cent. <i>ad valorem</i> .	..	.....

Item No.	Name of article	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony.	
73 (5)	ELECTRICAL BATH KNURLED AND PORTLAND CEMENT, the following, namely— (a) Insulators, Shackle, Sinclair, Cordaux or Pin type, not otherwise specified— (i) fitted	1[Revenue]	2[25] per cent <i>ad valorem</i> or Re 12 per dozen, whichever is higher	3*	*	
	(ii) not fitted	1[Revenue]	2[25] per cent <i>ad valorem</i> or four annas per dozen whichever is higher	3*	*	
	(b) Two way clerts	1[Revenue]	2[25] per cent <i>ad valorem</i> or four annas per gross of pairs which ever is higher	3* + *		
	(c) Spacing insulators	1[Revenue]	2[25] per cent <i>ad valorem</i> or two annas per gross whichever is higher	3* + *		
	(d) Ceiling roses (i) fitted	1[Revenue]	2[25] per cent <i>ad valorem</i> or ten annas per dozen, whichever is higher	3* * *		
	(ii) not fitted	1[Revenue]	2[25] per cent <i>ad valorem</i> or eight annas per dozen whichever is higher	3* * *		
	(e) Joint box cut outs (i) fitted	1[Revenue]	2[25] per cent <i>ad valorem</i> or eight annas per dozen, whichever is higher	3* * *		
	(ii) not fitted	1[Revenue]	2[25] per cent <i>ad valorem</i> or six annas per dozen, whichever is higher	3* * *		

\* Subs. by the Indian Tariff (Third Amendment) Act, 1939 s 3, for "Preferential revenue".

2 Subs. *ibid.* for "30".

3 The words and figure "20 per cent. *ad valorem*" rep., *ibid.*

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rate of duty.
				The United Kingdom	A British Colony	
73 (6)	RUBBER INSULATED CABLES and CABLES no core of which other than one specially designed is a pilot core having sectional area of less than one-eighth part of a square inch whether made with any additional insulation or covering under or over	Revenue	11 1/2 per cent <i>ad valorem</i>			

## SECTION XVII.

## TRANSPORT MATERIAL

74	Locomotives, tipping-wagons and the like conveyances designed for use on light rail track if adapted to be worked by manual or animal labour and if made mainly of iron or steel and component parts thereof of iron or steel					
	(a) of British manufacture	[Revenue]	1 1/2 times the <i>ex-cise</i> duty leviable for the time being on steel ingots produced in [the Provinces] or 10 per cent <i>ad valorem</i> whichever is higher			3* * *
	(b) not of British manufacture	[Revenue]	1 1/2 times the <i>ex-cise</i> duty leviable for the time being on steel ingots produced in [the Provinces] plus Rs 40 per ton, or 20 per cent <i>ad valorem</i> , whichever is higher			3* * *

1 Subs. by the Indian Tariff (Amendment) Act 1917 (25 of 1917) s. 2 for 'Protective'.

2 Subs. by the A.O. 1918 for 'British India'.

3 The word and figures 'March 31st 1917' rep. by Act 25 of 1917 s. 2. The original date was 'March 31st 1911'. The figure '1911' had been changed into '1912', '1914', '1916' and '1917' by Act 8 of 1911, 11 of 1912, 13 of 1914 and 16 of 1916, respectively.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
74 (1)	TRAMCARS and component parts and accessories thereof	Revenue	25 per cent. <i>ad valorem</i> .			
74 (2)	RAILWAY MATERIALS for permanent way and rolling stock, namely, sleepers, of heavier than iron and steel and fastenings thereof; bearing plates, chairs, inter-locking apparatus, brake-gear, shunting skids, couplings and springs, signals, turn-tables, weigh bridges, carriages, wagons, traversers, rail removers, scooters, trolleys, trucks; also cranes, water-cranes and water-tanks when imported by or under the orders of a railway administration: Provided that for the purpose of this entry 'railway' means a line of railway subject to the provisions of the Indian Railways Act 1890, and includes a railway constructed in a State in India and also such tramways as the <sup>1</sup> [Central Government] may, by notification in the <sup>2</sup> [official Gazette] specifically include therein: Provided also that articles of machinery as defined in Item No. 72 or No. 72 (8) shall not be deemed to be included hereunder.	Revenue	15-5/8 per cent. <i>ad valorem</i> .			

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C.".<sup>2</sup> Subs. by the A.O. 1937 for "Gazette of India".

Item No.	Name of article.	Nature of duty	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom	A British Colony.	
74 (8)	Component parts of Railway Materials, as defined in Item No 74 (2), namely, such parts only as are essential for the working of rail ways and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the railway material to which they belong if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable	Revenue	5 7/8 per cent <i>ad valorem</i>			
75	CONVIYANCES not otherwise specified and component parts and accessories thereof also MOTOR VANS and MOTOR LOBBIES imported complete	Revenue	5 per cent <i>ad valorem</i>			
75 (1)	MOTOR CARS including taxicabs and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof, provided that such articles are ordinarily also used for other purposes than as parts and accessories of motor vehicles included in this item or in	Preferential revenue	15 per cent <i>ad valorem</i>	24 1/2 per cent <i>ad valorem</i>		

1 Subs. by the Indian Finance Act, 1948 (20 of 1948), s. 4 for "37 1/2".

2 Subs., *ibid* for "30".



Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				The United Kingdom.	A British Colony.	
75 (1) — Contd	Items Nos. 75 (2) and 75 (3) shall be dutiable at the rate of duty specified for such articles.					
75 (2)	MOTOR CYCLES and MOTOR SCOOTERS and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof except such articles as are also adapted for use as parts and accessories of motor cars.	[Preferential revenue].	37-1/2 per cent. <i>ad valorem</i> .	2	[90 per cent <i>ad valorem</i> ]	
75 (3)	MOTOR OMNIBUSES, chassis of motor omnibuses, motor vans and motor lorries; and part of mechanically propelled vehicles and accessories not otherwise specified, excluding rubber tyres and tubes and such parts and accessories of motor vehicles included in this item as are also adapted for use as parts and accessories of motor cars.	[Preferential revenue]	25 per cent <i>ad valorem</i>	17-1/2 per cent <i>ad valorem</i>		
75 (4)	VEHICLES AND ARTS which are not mechanically propelled, not otherwise specified, and parts and accessories thereof; excluding rubber tyres and tubes.	Revenue	25 per cent. <i>ad valorem</i>			
75 (5)	TYRES (other than motor cycles) imported entire or in sections— (a) of British manufacture. (b) not of British manufacture.	Protective Protective	24 per cent. <i>ad valorem</i> . 36 per cent. <i>ad valorem</i> .			March 31st. 1949. March 31st. 1949.

1 Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Revenue".

2 Ins., *ibid*.

3 Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for the original item.

4 Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2 for item

75(5) inserted by the Indian Tariff (Third Amendment) Act, 1939, s. 3.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom.	A British Colony.	
75 (6)	FRAMES for cycles (other than motor cycles) -					
	(a) of British manufacture.	Protective.	24 per cent. <i>ad valorem</i> .			March 31st 1949.
	(b) not of British manufacture.	Protective.	36 per cent. <i>ad valorem</i> .			March 31st 1949.
75 (7)	HANDLEBARS for cycles (other than motor cycles) -					
	(a) of British manufacture.	Protective.	24 per cent. <i>ad valorem</i> .			March 31st 1949.
	(b) not of British manufacture.	Protective.	36 per cent. <i>ad valorem</i> .			March 31st 1949.
75 (8)	All other parts and accessories of Cycles (other than motor cycles) not otherwise specified (excluding rubber tyres and tubes)					
	(a) of British manufacture.	Protective	24 per cent. <i>ad valorem</i> .			March 31st 1949.
	(b) not of British manufacture	Protective	36 per cent. <i>ad valorem</i> .			March 31st 1949.
76	AEROPLANES, aero plane parts, aero plane engines, aeroplane engine parts and rubber tyres and tubes used exclusively for aeroplanes.	Revenue	24 1/2 per cent. <i>ad valorem</i> .			
76 (1)	Ships and other vessels for inland and harbour navigation, including steamers, launches, boats and barges imported entire or in sections:	Revenue	15 5/8 per cent. <i>ad valorem</i> .			
	Provided that articles of machinery as defined in Item No. 72 or No. 72 (3) shall, when separately imported not be deemed to be included hereunder.					

Item No	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
76 (2)	IRON SHIPS		Free			
76 (3)	LIQUID FUELS, not otherwise described for steam sailing, rowing and other vessels	Revenue	2½ per cent <i>ad valorem</i>			

## SECTION XVIII.

## SCIENTIFIC AND PRECISION INSTRUMENTS AND APPARATUS, WATCHMAKERS' AND CLOCKMAKERS' WARE, MUSICAL INSTRUMENTS

77	INSTRUMENTS, APPARATUS and ACCESSORIES other than electrical, all sorts, not otherwise specified, including photographic * * *	Preferential revenue	30 per cent <i>ad valorem</i>	20 per cent <i>ad valorem</i>		
77(1)	INSTRUMENTS, APPARATUS and ACCESSORIES imported by a passenger as part of his personal baggage and in actual use by him in the exercise of his profession or calling					
77(2)	Optical [Scientific, Philosophical and Surgical] INSTRUMENTS, APPARATUS and ACCESSORIES	Revenue	2½ per cent <i>ad valorem</i>			
77(3)	ARTIFICIAL TEETH	Preferential revenue	2½ per cent <i>ad valorem</i>		10 per cent <i>ad valorem</i>	
78	CLOCKS and WATCHES and parts thereof	Revenue	0 per cent <i>ad valorem</i>			
79	MUSICAL INSTRUMENTS and parts thereof, all sorts [and records for talking machines]	[Revenue]	50 per cent <i>ad valorem</i>			
	* * *		* * *			

<sup>1</sup> The words "scientific, philosophical and musical" are inserted by the Indian Tariff (Third Amendment) Act 1930, s. 3.

<sup>2</sup> Ins. by the Indian Tariff (Third Amendment) Act 1930, s. 3.

<sup>3</sup> Subs. *ibid* for "not otherwise specified".

<sup>4</sup> Subs. *ibid* for "Preferential revenue".

<sup>5</sup> The words "50 per cent *ad valorem*" are inserted.

<sup>6</sup> Item 79(1) rep. *ibid*.

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom.	A British Colony.	

**SECTION XIX.**  
**ARMS AND AMMUNITION.**

80	Save where otherwise specified, all articles which are arms or parts of arms within the meaning of the Indian Arms Act, 1878 (excluding springs used for air guns), all tools used for cleaning or putting together the same, all machines for making loading, closing or capping cartridges for arms other than rifled arms and all other sorts of ammunition and military stores, and any articles which the 1[Central Government] may, by notification in the 2[official Gazette] declare to be ammunition or military stores for the purposes of this Act	Revenue	50 per cent. <i>ad valorem</i> .			
80 1)	Subject to the exemptions specified in Item No. 80 (3) - Firearms, including gas and air guns, gas and air rifles and gas and air pistols, not otherwise specified, but excluding parts and accessories thereof.	3[Revenue]	4[Rs. 18-12 each or 37-1/2 per cent. <i>ad valorem</i> , whichever is higher, plus 12-1/2 per cent. <i>ad valorem</i> ]	54	* *	

<sup>1</sup> Subs. by the A.O. 1937 for "G. G. in C."

<sup>2</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>3</sup> Subs., *ibid* for "Preferential revenue".

<sup>4</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3 for "Rs. 18-12 each plus 10 per cent *ad valorem*, or 50 per cent *ad valorem*, whichever is higher".

<sup>5</sup> The words and figures "Rs. 18-12 each or 40 per cent. *ad valorem* whichever is higher" rep., *ibid*.

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom	A British Colony	
80 (2)	Subject to the exemptions specified in Item No. 80 (3) -					
	(a) Barrel, when the muzzle or double for firearms, including revolvers and pistols and air rifles and gas and air pistols not otherwise provided	Revenue	Rs. 18 12 each	100 per cent		
	(b) Muzzle and muzzle sprines for firearms, including gas guns as rifle and gas pistols	Revenue	Rs. 6 4 each	100 per cent		
	(c) Gun stocks and breech blocks	Revenue	Rs. 3 12 each	100 per cent		
	(d) Pouches, when made for each cartridge they will carry	Revenue	Rs. 5 each	100 per cent		
	(e) Actions (including skeleton and water) breech bolts and their heads, cooling pieces and locks for muzzle loading arms	Revenue	Rs. 14 each	100 per cent		
	(f) Machines for making, loading, or closing cartridges for rifled arms	Revenue	50 per cent <i>ad valorem</i>			
	(g) Machines for capping cartridges for rifle arms	Revenue	50 per cent <i>ad valorem</i>			

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty.
				A British Colony.	The United Kingdom.	
80 (3)	<p>The following ARMS, AMMUNITIONS and MILITARY STORES :-</p> <p>(a) Arms forming part of the regular equipment of a commissioned or gazetted officer in His Majesty's Service entitled to wear diplomatic, military, naval, Royal Air Force or police uniform.</p> <p>(b) A revolver and an automatic pistol and ammunition for such revolver and pistol up to a maximum of 100 rounds per revolver or pistol, (i) when accompanying a commissioned officer of His Majesty's regular forces, or of the Indian Auxiliary Force or the Indian Territorial Force or a gazetted police officer, or (ii) certified by the commanding officer of the corps to which such officer belongs, or, in the case of an officer not attached to any corps, by the officer commanding the station or district in which such</p>	...	Free	...	...	...

Item No.	Name of article	Nature of duty	Standard rate of duty	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				A British Colony	The United Kingdom	
(3) Contd	the following ARMS AMMUNI- TIONS and Mili- TARY STORES— contd					
	officer is serv- ing or in the case of a police officer by an Inspector (re- sident or Com- missioner of Police to be imported by the officer for the purpose of his equipment					
	(c) Swords for pre- sentation as army or vol- unteer prizes					
	(d) Arms ammuni- tion and mili- tary stores im- ported with the sanction of the [Cen- tral Govern- ment] for the use of any por- tion of the military forces of a State in India being a unit notified in pursuance of the First Schedule to the Indian Ex- tradition Act 1903					
	(e) Morris tubes and patent am- munition im- ported by offi- cers command- ing British and Indian re- giments or vol- unteer corps for the in- struction of their men					

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom.	A British Colony.	
80 (4)	ORNAMENTAL ARMS of an obsolete pattern possessing only an antiquarian value; masonic and theatrical and fancy dress swords, provided they are virtually useless for offensive or defensive purposes; and <i>dahs</i> intended exclusively for domestic, agricultural and industrial purposes.	Revenue	25 per cent. <i>ad valorem</i> .	...	...	...
81	CARTRIDGE CASES, filled and empty.	<sup>1</sup> [Revenue]	50 per cent. <i>ad valorem</i> .	2* * *	...	..

## SECTION XX.

## MISCELLANEOUS GOODS AND PRODUCTS NOT ELSEWHERE INCLUDED

82	CORAL, prepared	Revenue	25 per cent. <i>ad Valorem</i> .			
82 (1)	IVORY, manufactured, not otherwise specified.	Revenue	50 per cent. <i>ad Valorem</i> .			
82 (2)	BANGLES and BEADS, not otherwise specified.	Revenue	0 per cent. <i>ad Valorem</i> .			
83	BRUSHES, all sorts.	<sup>1</sup> [Revenue]	3[25] per cent. <i>ad Valorem</i> .	4* * *		
†	TOYS, GAMES, PLAYING CARDS and requisites for games and sports, bird shot, toy cannons, air guns and air pistols for the time being excluded in any part of <sup>6</sup> [the Provinces] from the operation of all the prohibitions and directions contained in the Indian Arms Act, 1878, and bows and arrows.	<sup>1</sup> [Revenue]	0 per cent. <i>ad Valorem</i> .	5* * *		

<sup>1</sup> Subs. by the Indian Tariff (Third Amendment) Act, 1930, s. 3 for "Preferential revenue".

<sup>2</sup> The words and figure "40 per cent. *ad valorem*" rep., *ibid*.

<sup>3</sup> Subs., *ibid*, for "30".

<sup>4</sup> The words and figure "20 per cent. *ad valorem*" rep., *ibid*.

<sup>5</sup> The words and figure "40 per cent. *ad valorem*" rep., *ibid*.

<sup>6</sup> Subs. by the A.O. 1948 for "British India".



Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Preferential rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				The United Kingdom.	A British Colony.	
85	BUTTONS, METAL	<sup>1</sup> [Revenue]	<sup>2</sup> [25] per cent. <i>ad valorem</i> .	3* * *		
5 (1)	SMOKER'S REQUISITES excluding tobacco and matches:	<sup>1</sup> [Revenue]	50 per cent. <i>ad valorem</i> .	** * *		
	Provided that mechanical lighters as defined in the Mechanical Lighters (Excise Duty) Act, 1934, shall be liable in addition to a duty equal to the amount of the excise duty imposed by that Act on mechanical lighters manufactured in <sup>5</sup> [the Province].					

## SECTION XXI.

## WORKS OF ART AND ARTICLES FOR COLLECTIONS

	PRINTS, ENGRAVINGS and PICTURES (including photographs and picture post cards), not otherwise specified	Revenue	50 per cent. <i>ad valorem</i>
8 (1)	ART, WORKS OF, not otherwise specified	Revenue	25 per cent. <i>ad valorem</i>
86 (2)	ART, the following works or - (1) statuary and pictures intended to be put up for the public benefit in a public place, and (2) memorials of a public character intended to be put up in a public place, including the materials used, or to be used in their construction, whether worked or not.		Free

<sup>1</sup> Subs., by the Indian Tariff (Third Amendment) Act, 1939 s. 3 for "Preferential revenue".

<sup>2</sup> Subs., *ibid*, for "30".

<sup>3</sup> The words and figure "20 per cent. *ad valorem*" rep., *ibid*.

<sup>4</sup> The words and figure "40 per cent. *ad valorem*" rep., *ibid*.

<sup>5</sup> Subs., by the A.O. 1948 for "British India".

Item No.	Name of article.	Nature of duty.	Standard rate of duty.	Proportional rate of duty if the article is the produce or manufacture of		Duration of protective rates of duty
				the United Kingdom.	A British Colony.	
8 (3)	SPECIMENS, MODELS and WALL DIAGRAMS illustrative of natural science and medals and antique coins		Free	.	.	...
86 (4)	POSTAGE STAMPS, whether used or unused.		Free	.	.	

## SECTION XXII.

## ARTICLES NOT OTHERWISE SPECIFIED

87	All other articles not otherwise specified, including articles imported by post.	Revenue	25 per cent ad valorem			
----	--	---------	------------------------	--	--	--

## 1[ THE SECOND SCHEDULE

## Export Tariff

Item No.	Name of article .	Rate of duty.
1	RAW JUTE (other than Bimlipatam jute)— (1) Cuttings . . . . . (2) All other descriptions . . . . .	Rs. 4-8 per bale of 400 lbs. Rs. 15 per bale of 400 lbs.
2	JUTE MANUFACTURES (other than of Bimlipatam jute), when not in actual use as coverings receptacles or bindings for other goods— (1) Sacking (cloth, bags, twist, yarn, rope and twine) . . . . . (2) Hessians and all other descriptions of jute manufactures not otherwise specified . . . . .	Rs. 50 per ton. Rs. 80 per ton.
3	RAW COTTON . . . . .	At such rate not exceeding Rs. 75 per bale of 400 lbs. as the Central Government by notification in the official Gazette may from time to time determine.
4	RICE, with or without husk, including rice flour, but excluding rice bran and rice dust, which are free	Two annas and three pies per standard maund.

1 Subs. by the Indian Finance Act, 1917 (20 of 1917), s. 5 for the original Sch. as amended by the Indian Finance Act, 1935 and Ordinances 26 and 27 of 1946 and 2 of 1947.

## THE SECOND SCHEDULE

*Export Tariff*

Item No.	Name of article	Rate of duty
5	TEA . . . . .	Four annas per lb.)
[6	Cloth of any description manufactured either wholly from cotton, or partly from cotton, and partly from any other substance and containing not less than ten per cent. of cotton by weight, but excluding cloth of handloom manufacture . . .	25 per cent. <i>ad valorem</i> .
7	Manganese ore . . . . .	25 per cent. <i>ad valorem</i> .
8	Oil seeds . . . . .	Rs. 80 per ton.
9	Vegetable oils . . . . .	Rs. 100 per ton].

## THE THIRD SCHEDULE.

[Acts repealed] Repealed by the Repealing and Amending Act, 1937, s. 3 and Second Schedule.

<sup>1</sup> Subs. by the Indian Finance Act, 1913 (20 of 1913), s. 6 for items 6 and 7 inserted by Act 42 of 1917, s. 2.



# THE INDIAN NAVY (DISCIPLINE) ACT, 1934.

<sup>1</sup>Act No. XXXIV of 1934.

[8th September, 1934.]

An Act to provide for the application of the Naval Discipline Act to the Indian Navy.

WHEREAS by section 66 of the Government of India Act it is among other things enacted that provision may be made by the Indian Legislature for the application to the naval forces raised by the Governor General in Council of the Naval Discipline Act subject to such modifications and adaptations as may be made by the said Legislature to adapt the Act to the circumstances of India; <sup>29 & 30 Vict., c. 109.</sup>

AND WHEREAS it is expedient to make such provision

It is hereby enacted as follows:-

Short title and commencement.

1. (1) This Act may be called the Indian Navy (Discipline) Act, 1934.

(2) It shall come into force on such date<sup>2</sup> as the <sup>3</sup>[Central Government] may, by notification in the <sup>4</sup>[Official Gazette], appoint.

Definition.

2. In this Act, unless there is anything repugnant in the subject or context,—

“the Indian Navy” means the naval forces and ships raised and provided by the <sup>3</sup>[Central Government].

Application of the Naval Discipline Act to the Indian Navy.

3 (1) The Naval Discipline Act shall apply to the Indian Navy as if that Act were in the form in which it is set forth in the First Schedule to this Act. <sup>29 & 30 Vict., c. 109.</sup>

(2) In the application to the Indian Navy of the Naval Discipline Act <sup>5</sup>[as to set forth “the Indian Navy” has the same meaning as in this Act]. <sup>29 & 30 Vict., c. 109.</sup>

4 [Repeals] *Rep. by the Repealing Act 1938 (1 of 1938) s. 2 and Sch.*

## THE FIRST SCHEDULE

(See section 3.)

## THE NAVAL DISCIPLINE ACT.

(29 and 30 Vict., c. 109)

(as modified for application to the Indian Navy.)

*An Act to make Provision for the Discipline of the Navy.*

WHEREAS it is expedient to amend the law relating to the Government of the Navy, whereon, under the good Providence of God, the wealth, safety, and strength of the Kingdom chiefly depend.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 252 and for Report of Select Committee see *ibid.*, 1934, Pt. V, p. 257

This Act is in force in the Province of Bihar was applied to the Santal Parganas District by Bihar Regulation 2 of 1944, s. 2

<sup>2</sup> 2nd October, 1934: see Gazette of India, 1934, Extraordinary, p. 227

<sup>3</sup> Subs. by the A. O. 1937, for “G. G. in C.”

<sup>4</sup> Subs. by the A. O. 1937, for “Gazette of India”.

<sup>5</sup> Subs. by the A. O. 1946 for certain original words

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

## PART I.

### ARTICLES OF WAR.

#### *Public Worship.*

1. All officers in command of ships of the Indian Navy shall give reasonable facilities for the performance of religious duties by the officers and members of the crews of their respective ships to each man according to his religion. **Facilities for the performance of religious duties.**

#### *Misconduct in the Presence of the Enemy.*

2. Every flag officer, captain, commander or officer commanding subject to this Act who upon signal of battle, or on sight of a ship of an enemy which it may be his duty to engage shall not, **Penalty for misconduct in action,**

- (1) use his utmost exertion to bring his ship into action;
- (2) or shall not during such action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously;
- (3) or who shall surrender his ship to the enemy when capable of making a successful defence, or who in time of action shall improperly withdraw from the fight,

shall, if he has acted traitorously, suffer death; if he has acted from cowardice, shall suffer death, or such other punishment as is hereinafter mentioned; and if he has acted from negligence or through other default, he shall be dismissed from His Majesty's service with or without disgrace, or shall suffer such other punishment as is hereinafter mentioned.

3. Every officer subject to this Act who shall forbear to pursue the chase of any enemy, pirate, or rebel, beaten or flying, or shall not relieve and assist a known friend in view to the utmost of his power, or who shall improperly forsake his station, shall, if he has therein acted traitorously, suffer death; if he has acted from cowardice, suffer death or such other punishment as is hereinafter mentioned; if he has acted from negligence or through other default, shall be dismissed from His Majesty's service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned. **Penalty for not pursuing the enemy, and of not assisting a friend in view.**

4. When any action or any service is commanded, every person subject to this Act who shall presume to delay or discourage the said action or service upon any pretence whatsoever, or in the presence or vicinity of the enemy shall desert his post or sleep upon his watch, shall suffer death or such other punishment as is hereinafter mentioned. **Penalty for delaying or discouraging the service or deserting his post, etc.**

5. Every person subject to this Act, and not being a commanding officer, who shall not use his utmost exertions to carry the orders of his superior officers into execution when ordered to prepare for action, or during the action, shall, if he has acted traitorously, suffer death; if he has acted from cowardice, shall suffer death, or such other punishment as is herein. **Penalty for misconduct of subordinate officers and men in action.**

after mentioned; and if he has acted from negligence or through other default, be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

*Communications with the Enemy.*

**Penalty for spies.**

6. All spies for the enemy shall be deemed to be persons subject to this Act, and shall suffer death or such other punishment as is hereinafter mentioned.

**Penalty for correspondence, etc. with the enemy.**

7. Every person subject to this Act who shall—

- (1) traitorously hold correspondence with or shall give intelligence to the enemy;
- (2) or fail to make known to the proper authorities any information he may have received from the enemy;
- (3) or who shall relieve the enemy with any supplies, shall suffer death, or such other punishment as is hereinafter mentioned.

**Penalty for improper communication with the enemy.**

8. Every person subject to this Act who shall, without any treacherous intention, hold any improper communication with the enemy, shall be dismissed with disgrace from His Majesty's service, or shall suffer such other punishment as is hereinafter mentioned.

*Neglect of duty.*

**Penalty for abandoning post, etc.**

9. Every person subject to this Act who shall desert his post or sleep upon his watch, or negligently perform the duty imposed on him, shall be dismissed from His Majesty's service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned.

*Mutiny.*

**Penalty for mutiny accompanied by acts of violence.**

10. Where mutiny is accompanied by violence, every person subject to this Act who shall join therein shall suffer death or such other punishment as is hereinafter mentioned; and every person subject to this Act who shall not use his utmost exertions to suppress such mutiny shall, if he has acted traitorously, suffer death, or such other punishment as is hereinafter mentioned; if he has acted from cowardice, shall suffer penal servitude or such other punishment as is hereinafter mentioned; if he has acted from negligence, he shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

**Penalty for mutiny not accompanied by acts of violence.**

11. Where a mutiny is not accompanied by violence, the ringleader or ringleaders of such mutiny shall suffer death, or such other punishment as is hereinafter mentioned; and all other persons who shall join in such mutiny, or shall not use their utmost exertions to suppress the same, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

**Penalty for inciting to mutiny.**

12. Every person subject to this Act who shall endeavour to seduce any other person subject to this Act from his duty or allegiance to His Majesty, or endeavour to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

13. Every person, not otherwise subject to this Act, who, being on board any [ship of the Indian Navy], shall endeavour to seduce from his duty or allegiance to His Majesty any person subject to this Act, shall so far as respects such offence be deemed to be a person subject to this Act, and shall suffer death or such other punishment as is hereinafter mentioned.

**Penalty for civilians endeavouring to seduce from allegiance.**

14. Every person subject to this Act who shall make or endeavour to make any mutinous assembly, or shall lead or incite any other person to join in any mutinous assembly or shall utter any words of sedition or mutiny, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

**Penalty for making mutinous assemblies or uttering seditious words.**

15. Every person subject to this Act who shall wilfully conceal any traitorous or mutinous practice or design or any traitorous or mutinous words spoken against His Majesty, or any words, practice, or design tending to the hinderance of the service, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

**Penalty for concealing any traitorous or mutinous practice, design, or words.**

16. Every person subject to this Act who shall strike or attempt to strike, or draw or lift up any weapon against, or use or attempt to use any violence against, his superior officer whether or not such superior officer is in the execution of his office, shall be punished with penal servitude or such other punishment as is hereinafter mentioned.

**Punishment for striking or attempting to strike, etc., superior officer.**

#### *Insubordination.*

17. Every person subject to this Act who shall wilfully disobey any lawful command of his superior officer, or shall use threatening or insulting language, or behave with contempt to his superior officer, shall be punished with dismissal with disgrace from His Majesty's service, or suffer such other punishment as is hereinafter mentioned.

**Penalty for disobedience or using threatening language to superior officer.**

18. Every person subject to this Act who shall quarrel or fight with any other person, whether such other person be or be not subject to this Act, or shall use reproachful or provoking speeches or gestures tending to make any quarrel or disturbance, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

**Penalty for quarrelling, etc., or using reproachful speech or gestures.**

#### *Desertion and Absence without Leave.*

19. Every person subject to this Act who shall absent himself from his ship, or from the place where his duty requires him to be, with an intention of not returning to such ship or place, or who shall at any time and under any circumstances when absent from his ship or place of duty, do any act which shows that he has an intention of not returning to such ship or place, shall be deemed to have deserted, and shall be punished accordingly; that is to say,

**Penalty for desertion.**

- (1) if he has deserted to the enemy, he shall be punished with death or such other punishment as is hereinafter mentioned;
- (2) if he has deserted under any other circumstances, he shall be punished with penal servitude or such other punishment as is hereinafter mentioned;

<sup>1</sup> Subs. by the A. O. 1946, for "ship of His Majesty."



and in every such case he shall forfeit all pay, head money, bounty, salvage, prize money, and allowances that have been earned by him and all annuities, pensions, gratuities, medals, and decorations that may have been granted to him, and also all clothes and effects which he may have left on board the ship, or at the place from which he has deserted, unless the tribunal by which he is tried, or the <sup>1</sup>[Central Government], shall otherwise direct.

**Penalty for inducing any person to desert.**

20. Every person subject to this Act who shall endeavour to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned.

**Penalty for entertaining a deserter.**

21. Every officer in command of any <sup>2</sup>[ship of the Indian Navy] who shall receive or entertain any deserter from His Majesty's naval, military, or air forces, after discovering him to be a deserter, and shall not with all convenient speed, in the case of a deserter from His Majesty's naval forces, give notice to the commanding officer of the ship to which such deserter belongs, or, if such ship is at a distance, to the <sup>1</sup>[Central Government], or to the Officer Commanding the Indian Navy, or, in case of a deserter from His Majesty's military or air forces, give notice to the <sup>1</sup>[Central Government], or the commanding officer of the regiment or unit to which such deserter belongs, the officer so offending shall be dismissed from His Majesty's service, or shall suffer such other punishment as is hereinafter mentioned.

**Punishment for breaking out of ship.**

22. If any person subject to this Act (without being guilty of desertion) improperly leaves his ship or place of duty, he shall be liable to imprisonment or to such other punishment as is hereinafter mentioned, and to such other punishment by forfeiture of wages or of other benefits as the <sup>1</sup>[Central Government] from time to time by regulations prescribes.

**Penalty for absence without leave.**

23. Every person subject to this Act who (without being guilty of desertion or of improperly leaving his ship or place of duty) shall be absent without leave shall be liable in time of war to imprisonment or such other punishment as is hereinafter mentioned, and at other times to imprisonment or detention for any period not exceeding ten weeks, or such other punishment as the circumstances of the case may require, and to such other punishment by forfeiture of wages or of other benefits as the <sup>1</sup>[Central Government] from time to time by regulations prescribes.

**Forfeiture of effects for absence without leave.**

24. If any person subject to this Act is absent without leave for a period of one month (whether he is guilty of desertion or of improperly leaving his ship or place of duty or not), but is not apprehended and tried for his offence, he shall be liable to forfeiture of wages and other benefits as the <sup>1</sup>[Central Government] from time to time by regulations prescribes, and the <sup>1</sup>[Central Government] may by an order containing a statement of the absence without leave direct that the clothes and effects (if any) left by him on board ship or at his place of duty be forfeited, and the same may be sold, and the proceeds of the sale shall be disposed of as the <sup>1</sup>[Central Government] may direct; and every order under this provision for forfeiture or sale shall be conclusive as to the fact of the absence without leave as therein stated of the person therein named; but in any case the <sup>1</sup>[Central Government] may, if it seems fit on sufficient cause being shown at any time after forfeiture and before sale, remit the forfeiture, or after sale pay or dispose of the proceeds

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C."

<sup>2</sup> Subs. by the A. O. 1948, for "ship of His Majesty".

or the sale or any part thereof to or for the use of the person to whom the clothes or effects belonged, or his representatives.

V of 1938. 25. If any person not subject to this Act assists or procures any person subject to this Act to desert or improperly absent himself from his duty; or conceals, employs or continues to employ any person subject to this Act who is a deserter or improperly absent from his duty, knowing him to be a deserter or so improperly absent, he shall for every such offence of assistance, procurement, concealment, employment or continuance of employment, be liable, on conviction in a summary trial before a Magistrate empowered under section 260 of the Code of Criminal Procedure, 1898, or before any person or persons or court exercising like authority in any part of His Majesty's dominions, to a penalty not exceeding two hundred rupees; and every such penalty shall be applied as the <sup>1</sup>[Central Government] directs. Penalty for assisting, etc., desertion.

V of 1898. 26. If any person not subject to this Act by words or otherwise persuades any person subject to this Act to desert or improperly absent himself from his duty, he shall for every such offence be liable, on conviction in a summary trial before a Magistrate empowered under section 260 of the Code of Criminal Procedure, 1898, or before any person or persons or court, exercising like authority in any part of His Majesty's dominions, to a penalty not exceeding two hundred rupees; and every such penalty shall be applied as the <sup>1</sup>[Central Government] directs. Penalty for persuading to desertion, etc.

#### *Miscellaneous Offences.*

27. Every person subject to this Act who shall be guilty of any profane oath, cursing, execration, drunkenness, uncleanness or other scandalous action in derogation of God's honour and corruption of good manners, shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned. Penalty for profane swearing and other immoralities.

28. Every officer subject to this Act who shall be guilty of cruelty, or of any scandalous or fraudulent conduct, shall be dismissed with disgrace from His Majesty's service; and every officer subject to this Act who shall be guilty of any other conduct unbecoming the character of an officer shall be dismissed, with or without disgrace, from His Majesty's service. Penalty on officer for cruelty or oppression.

29. Every person subject to this Act who shall either designedly or negligently or by any default lose, strand, or hazard or suffer to be lost, stranded, or hazarded, any <sup>2</sup>ship of the Indian Navy] or in His Majesty's service or lose or suffer to be lost any aircraft of His Majesty or in His Majesty's service, shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned. Penalty for suffering ships or aircraft to be improperly lost.

30. The officers of all <sup>3</sup>ships of the Indian Navy] appointed for the convoy and protection of any ships or vessels shall diligently perform their duty without delay according to their instructions in that behalf; and every officer who shall fail in his duty in this respect, and shall not defend the ships and goods under his convoy, without deviation to any other objects, or shall refuse to fight in their defence if they are assailed, or shall cowardly abandon and expose the ships in his convoy to hazard, or shall demand or exact any money or other reward from any merchant or master for con- Penalty for not taking care of and defending ships under convoy.

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C."

<sup>2</sup> Subs. by the A. O. 1948, for "ship of His Majesty".

<sup>3</sup> Subs. by the A. O. 1948, for "ships of His Majesty".

voying any ships or vessels intrusted to his care, or shall misuse the masters or mariners thereof, shall make such reparation in damages to the merchants, owners, and others as the Court of Admiralty may adjudge, and also shall be punished criminally according to the nature of his offence, by death or such other punishment as is hereinafter mentioned.

Master of merchant vessel to obey orders of convoying officer.

31. Every master or other officer in command of any merchant or other vessel under the convoy of any <sup>1</sup>[ship of the Indian Navy] shall obey the commanding officer thereof in all matters relating to the navigation or security of the convoy; and shall take such precautions for avoiding the enemy as may be directed by such commanding officer, and if he shall fail to obey such directions such commanding officer may compel obedience by force of arms without being liable for any loss of life or of property that may result from his using such force.

Penalty for taking any goods on board other than for the use of the vessel except gold, silver, jewels, etc.

32. Every officer in command of <sup>2</sup>[any ship of the Indian Navy] who shall receive on board or permit to be received on board such ship any goods or merchandises whatsoever, other than for the sole use of the ship, except gold, silver, or jewels, and except goods and merchandise belonging to any merchant, or on board any ship which may be shipwrecked or in imminent danger, either on the high seas or in some port, creek, or harbour, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the <sup>3</sup>[Central Government] or his superior officer, shall be dismissed from His Majesty's service, or suffer such other punishment as is hereinafter mentioned.

Penalty for embezzling public stores.

33. Every person subject to this Act who shall wastefully expend, embezzle, or fraudulently buy, sell or receive any ammunition, provisions, or other public stores, and every person subject to this Act, who shall knowingly permit any such wasteful expenditure, embezzlement, sale, or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for burning any magazine or vessel, etc. not belonging to an enemy.

34. Every person subject to this Act who shall unlawfully set fire to any dockyard, victualling yard or steam factory yard, arsenal, magazine, building, stores, or to any ship, vessel, hoy, barge, boat, or other craft or furniture thereunto belonging, not being the property of an enemy, pirate, or rebel, shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for making or signing false muster.

35. Every person subject to this Act who shall knowingly make or sign a false muster or record or other official document, or who shall command, counsel, or procure the making or signing thereof, or who shall aid or abet any other person in the making or signing thereof, shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for misconduct in hospital.

36. Every person subject to this Act who shall wilfully do any act or wilfully disobey any orders, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity, or to delay his cure, or who shall feign any disease, infirmity, or inability to perform his duty, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

<sup>1</sup> Subs. by the A. O. 1948, for "ship of His Majesty".

<sup>2</sup> Subs. by the A. O. 1948, for "any of His Majesty's ships".

<sup>3</sup> Subs. by the A. O. 1937, for "G. G. in C."

37. Every person subject to this Act who shall have any cause of complaint, either of the unwholesomeness of the victuals or upon any other just ground, shall quietly make the same known to his superior, or captain, or to the officer commanding the Indian Navy, and the said superior, captain, or officer, shall, as far as he is able, cause the same to be presently remedied; and no person subject to this Act upon any pretence whatever shall attempt to stir up any disturbance, upon pain of such punishment as a court-martial may think fit to inflict, according to the degree of offence.

Penalty for endeavouring to stir up any disturbance on account of unwholesomeness of the victuals or other just grounds.

38. All the papers, charter-parties, bills of lading, passports, and other writings, whatsoever that shall be taken, seized, or found abroad any ship or ships which shall be taken as prize shall be duly preserved, and the commanding officer of the ship which shall take such prize shall send the originals entire and without fraud to the Court of Admiralty, or such other court or commissioners as shall be authorised to determine whether such prize be lawful capture, there to be viewed, made use of, and proceeded upon according to law, upon pain that every person offending herein shall be dismissed from His Majesty's service, or shall suffer such other punishment as is hereinafter mentioned, and in addition thereto shall forfeit and lose his share of the capture.

Penalty for not sending to the Court of Admiralty all papers found aboard prize ships.

39. No person subject to this Act shall take out of any prize or ship seized for prize any money, plate, or goods, unless it shall be necessary for the better securing thereof, or for the necessary use and service of [any of ships and vessels of war of the Indian Navy], before the same be adjudged lawful prize in some Admiralty Court; but the full and entire account of the whole without embezzlement shall be brought in and judgment passed entirely upon the whole, without fraud, upon pain that every person offending herein shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned, and in addition thereto forfeit and lose his share of the capture.

Penalty for taking money or other effects out of any prize before the same shall be condemned.

40. If any ship or vessel shall be taken as prize, none of the officers, mariners, or other persons on board her shall be stripped of their clothes, or in any sort pillaged, beaten, or evil intreated, upon pain that the person or persons so offending shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for stripping or ill-using persons taken on board as prize.

41. If the commanding officer of [any ship of the Indian Navy] does any of the following things, namely,

Penalty on commanders capturing as prize by collusion or collusively restoring ships or goods.

- (1) by collusion with the enemy takes as prize any vessel, goods, or thing;
- (2) unlawfully agrees with any person for the ransoming of any vessel, goods, or thing taken as prize; or
- (3) in pursuance of any unlawful agreement for ransoming or otherwise by collusion actually quits or restores any vessel, goods or thing taken as prize;

he shall be liable to dismissal from His Majesty's service, with disgrace, or to such other punishment as is hereinafter mentioned.

<sup>1</sup> Subs. by the A. O. 1948, for "any of His Majesty's ships and vessels of War".

<sup>2</sup> Subs. by the A. O. 1948, for "any of His Majesty's ships".

Penalty for breaking bulk on board prize ship with a view to embezzlement.

42. If any person subject to this Act breaks bulk on board any vessel taken as prize, or detained in the exercise of any belligerent right, or under any Act relating to piracy or to the slave trade or to the Customs, with intent to embezzle anything therein or belonging thereto, he shall be liable to dismissal from His Majesty's service, with disgrace, or to such other punishment as is hereinafter mentioned, and in addition thereto to forfeit and lose his share of the capture.

Penalty for offences against naval discipline not particularly mentioned.

43. Every person subject to this Act who shall be guilty of any act, disorder, or neglect to the prejudice of good order and naval discipline, not hereinbefore specified, shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Crimes to be punished according to laws and customs in use.

44. Any person subject to this Act committing any offence against this Act, such offence not being punishable with death or penal servitude, shall, save where this Act expressly otherwise provides, be proceeded against and punished according to the laws and customs in such cases used at sea.

#### OFFENCES PUNISHABLE BY ORDINARY LAW.

Penalty for offences punishable by ordinary law.

45. Every person subject to this Act who shall be guilty of an offence punishable under section 302, 304, 304A, 377, 377 read with 511, 379, 380, 381, 382, or 392 of the Indian Penal Code shall be punishable with the punishment provided in that Code for the offence [or, except in the case of an offence punishable under the said section 302 or 377, with such other punishment as is hereinafter mentioned.] XLV of 1969

If any such person shall be guilty of any other criminal offence which if committed in <sup>2</sup>[India] would be punishable by the law of <sup>2</sup>[India], he shall, whether the offence be or be not committed in <sup>2</sup>[India], be punished either in pursuance of the first part of this Act as for an act to the prejudice of good order and naval discipline not otherwise specified, or the offender shall be subject to the same punishment as might for the time being be awarded by any ordinary criminal tribunal competent to try the offender if the offence had been committed in <sup>2</sup>[India].

Offences which are punishable.

46. For all offences specified or referred to in this Act, if committed by any person subject thereto in any harbour, haven, or creek, or on any lake or river, whether in or out of <sup>2</sup>[India], or anywhere within the jurisdiction of the Admiralty, or at any place on shore out of <sup>2</sup>[India] or in any of His Majesty's dockyards, victualling yards, steam factory yards, or on any gun wharf, or in any arsenal, barrack, or hospital belonging to His Majesty or in any other premises held by or on behalf of the Crown for naval or military purposes, or in any canteen, or sailors' home or any place of recreation placed at the disposal of or used by officers or men of <sup>3</sup>[the Indian Navy] which may be prescribed by the <sup>4</sup>[Central Government], whether in or out of <sup>2</sup>[India], the offender may be tried and punished under this Act; and for all offences hereinbefore specified under the headings "misconduct in the presence of the enemy", "communications with the enemy", "neglect of duty", "mutiny", "insubordination", "desertion and absence without

<sup>1</sup> Ins. by the Indian Navy (Discipline) Amendment Act, 1940 (29 of 1940), s. 2

<sup>2</sup> Subs. by the A. O. 1948, for "British India".

<sup>3</sup> Subs. by the A. O. 1948 for "His Majesty's Navy".

<sup>4</sup> Subs. by the A. O. 1937, for "G. G. in C."

leave", or "miscellaneous offences", if committed by any person subject to this Act at any place on shore, whether in or out of [India], the offender may be tried and punished under this Act.

46.1. (1) Where an offence under this Act has been committed by any person while subject to this Act, such person may be taken into and kept in custody and tried and punished for such offence although he has ceased to be subject to this Act in like manner as he might have been taken into and kept in custody, tried, or punished if he had continued so subject: Provisions where offender has ceased to be subject to the Act.

Provided that where a person has since the commission of an offence ceased to be subject to this Act, he shall not be tried for such offence, except in case of offences of mutiny or desertion, unless proceedings against him are instituted within three months after he has ceased to be subject to this Act, but this section shall not affect the jurisdiction of a civil court in the case of any offence triable by such court as well as by court-martial.

(2) Where a person subject to this Act is sentenced under this Act to penal servitude, imprisonment, or detention, this Act shall apply to him during the term of his sentence notwithstanding that he is discharged or dismissed from His Majesty's service, or has otherwise ceased to be subject to this Act, and he may be kept in custody, removed, imprisoned, made to undergo detention and punished accordingly, as if he had continued to be subject to this Act.

## PART II.

### GENERAL PROVISIONS.

47. Where the amount of punishment for any offence under this Act depends upon the intent with which it has been committed, and any person is charged with having committed such offence with an intent involving a greater degree of punishment, a court-martial may find that the offence was committed with an intent involving a less degree of punishment, and award such punishment accordingly. Power of court-martial to find intent with which offence committed.

48. Where any person shall be charged with any offence under this Act he may, upon failure of proof of the commission of the greater offence, be found guilty of another offence of the same class involving a less degree of punishment, but not of any offence involving a greater degree of punishment. Power of court-martial to find prisoner guilty of lesser offence on charge of greater

49. All armed rebels, armed mutineers, and pirates shall be deemed to be enemies within the meaning of this Act. Rebels and mutineers to be deemed enemies.

50. Every officer in command of a [fleet, squadron or ship of the Indian Navy], or the senior officer present at a port, or an officer having by virtue of sub-section (3) of section fifty-six of this Act power to try offences, may, by warrant under his hand, authorise any person to arrest any offender subject to this Act for any offence against this Act mentioned in such Power to arrest offenders.

<sup>1</sup> Subs. by the A. O. 1948, for "British India".

<sup>2</sup> Subs. by the A. O. 1948, for "fleet or squadron of His Majesty's ships, or of one of His Majesty's ships".

warrant; and any such warrant may include the names of more persons than one in respect of several offences of the same nature; and any person named in any such warrant may forthwith, on his apprehension, if the warrant so directs, be taken on board the ship to which he belongs, or <sup>1</sup>[some other ship of the Indian Navy]; and any person so authorised may use force, if necessary, for the purpose of effecting such apprehension, towards any person subject to this Act.

Penalty for not assisting in detection of prisoners.

51. Every person subject to this Act who shall not use his utmost endeavours to detect, apprehend and bring to punishment all offenders against this Act, and shall not assist the officers appointed for that purpose, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

### PART III.

#### REGULATIONS AS TO PUNISHMENTS.

**Punishments** 52. The following punishments may be inflicted in <sup>2</sup>[the Indian Navy]:—

- (1) Death:
- (2) Penal servitude:
- (3) Dismissal with disgrace from His Majesty's service:
- (4) Imprisonment or corporal punishment:
- (4A) Detention:
- (5) Dismissal from His Majesty's service:
- (6) Forfeiture of seniority as an officer for a specified time, or otherwise:
- (7) Dismissal from the ship to which the offender belongs:
- (8) Severe reprimand, or reprimand:
- (9) Disrating a subordinate or petty officer:
- (10) Forfeiture of pay, head money, bounty, salvage, prize money and allowances earned by, and of all annuities, pensions, gratuities, medals, and decorations granted to, the offender, or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the ship to which he belongs:
- (11) Such minor punishments as are now inflicted according to the custom of the navy, or may from time to time be allowed by the <sup>3</sup>[Central Government]:

And each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

**Regulations as to infliction of punishments**

53. The following regulations are hereby made with respect to the infliction of punishments in <sup>2</sup>[the Indian Navy]:—

<sup>1</sup> Subs. by the A. O. 1948, for "some other of His Majesty's Ships".

<sup>2</sup> Subs. by the A. O. 1948, for "His Majesty's Navy".

<sup>3</sup> Subs. by the A. O. 1937, for "G. G. in C.".

V of 1898.

- (1) The powers to suspend, remit or commute sentences of punishment shall be the powers conferred by and shall be exercised in accordance with the provisions of sections 401 and 402 of the Code of Criminal Procedure, 1898, save that such powers<sup>1</sup> [shall be exercisable by the Central Government and not by the Provincial Government]; and any sentence so modified shall (subject to the provisions of this Act) be valid, and shall be carried into execution, as if it had been originally passed, with such modification, by the court-martial; but so that neither the degree nor the duration of the punishment involved in any sentence be increased by any such modification:
- (2) Judgment of death shall not be passed on any prisoner unless four at least of the officers present at the court-martial, where the number does not exceed five, and in other cases a majority of not less than two-thirds of the officers present, concur in the sentence:
- (3) Except in case of mutiny, the punishment of death shall not be inflicted on any prisoner until the sentence has been confirmed by the<sup>2</sup> [Central Government]:
- (4) The punishment of penal servitude may be inflicted for the term of life or for any other term of not less than three years:
- (5) The punishment of penal servitude shall in all cases involve dismissal with disgrace from His Majesty's service:
- (6) A sentence of dismissal with disgrace shall involve in all cases a forfeiture of all pay, head money, bounty, salvage, prize money and allowances that have been earned by, and of all annuities, pensions, gratuities, medals, and decorations that may have been granted to the offender, and an incapacity to serve His Majesty again in any military, naval, air force, or civil service, and may also in all cases be accompanied by a sentence of imprisonment:
- (7) The punishment of imprisonment<sup>3</sup> [shall, except as provided in section 45, be limited to a term] not exceeding two years and may be accompanied with a sentence of dismissal from His Majesty's service:
- (8) A sentence of imprisonment may be accompanied with a direction that the prisoner shall be kept in solitary confinement for any period of such term not exceeding fourteen days at any one time, and not exceeding eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than the periods of solitary confinement: and when the imprisonment awarded exceeds eighty-four days, the solitary confinement shall not exceed seven days in any twenty-eight days of the whole imprisonment awarded, with

<sup>1</sup> Subs by the Repealing and Amending Act, 1942 (25 of 1942) s. 3 and Sch. II for "shall not be exercisable by the Provincial Government". The words "Provincial Government" had been substituted by A. O. 1937 for "I. G."

<sup>2</sup> Subs. by the A. O. 1937 for "G. G. in C".

<sup>3</sup> Subs. by the Indian Navy (Discipline) Amendment Ordinance, 1943 (11 of 1943), s. 2, for "may be inflicted for any term".



intervals between the periods of solitary confinement of not less duration than such periods :

(9) A sentence of imprisonment may be rigorous or simple, or partly rigorous and partly simple, and corporal punishment may be awarded in addition to any sentence of imprisonment, whether such imprisonment is or is not to be accompanied with solitary confinement <sup>1</sup>\* \* \* :

(9A) The punishment of detention may be inflicted for any term not exceeding two years :

Provided that, until naval detention quarters shall have been set apart and declared to be such by the <sup>2</sup>[Central Government] by notification in the <sup>3</sup>[Official Gazette], no sentence of detention shall be awarded :

(10) The punishment of imprisonment, or detention whether on board ship or on shore, shall involve disrating in case of a petty officer and reduction to the ranks in case of a non-commissioned officer of marines, and shall in all cases be accompanied by stoppage of pay or wages during the term of imprisonment or detention : provided that where the punishment awarded is detention for a term not exceeding fourteen days, the sentence may direct that the punishment shall not be accompanied by stoppage of pay or wages during the term of detention :

(11) In any case of corporal punishment not more than forty-eight lashes shall be inflicted ; no officer shall be subject to detention or to corporal punishment : no petty or non-commissioned officer shall be subject to corporal punishment except in case of mutiny.

All other punishments authorised by this Act may be inflicted in the manner heretofore in use in the navy.

Substitution of 'imprisonment' for 'penal servitude' in certain cases.

53.1. (1) Where a person other than a European or American is sentenced to penal servitude, the authority sentencing him shall record such sentence and the term thereof and at the same time shall record an order substituting for such sentence a sentence of transportation which may be for life, or of rigorous imprisonment not exceeding fourteen years.

(2) For the purposes of this Act, unless there is anything repugnant in the subject or context, "penal servitude" includes transportation or rigorous imprisonment substituted for penal servitude in accordance with this section.

Limitation of time for trials.

54. No person, unless he be an offender who has avoided apprehension or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless such trial shall take place within three years from the commission of such offence or within one year after the return of such offender to India, where he has been absent from India during such period of three years.

<sup>1</sup> The words "and hard labour or either of them" were rep. by the Repealing and Amending Act, 1942 (25 of 1942) s. 3 and Sch. II.

<sup>2</sup> Subs. by the A. O. 1937, for "G. G. in O."

<sup>3</sup> Subs. by the A. O. 1937, for "Gazette of India".

55. Subject to the foregoing regulations, where any punishment is specified by this Act as the penalty for any offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment, according to the scale hereinbefore mentioned; but <sup>1</sup>[transportation shall be deemed equal in degree to penal servitude, and corporal punishment shall be deemed equal in degree to imprisonment and] may in all cases, subject to the foregoing regulations, be inflicted as a substitute for or in addition to imprisonment.

56. (1) Any offence triable under this Act may be tried and punished by court-martial. **Authorities having power to try offences.**

(2) Any offence not capital which is triable under this Act, and (except in the cases by this Act expressly provided for) is not committed by an officer, may, under such regulations as the <sup>2</sup>[Central Government] from time to time issues, be summarily tried and punished by the officer in command of the ship to which the offender belongs at the time either of the commission or of the trial of the offence, subject to the restriction that the commanding officer shall not have power to award penal servitude or to award imprisonment or detention for more than three months.

(3) The power by this section vested in an officer commanding a ship may,—

(a) as respects persons on board a tender to the ship, be exercised in the case of a single tender absent from the ship, by the officer in command of such tender, and in the case of two or more tenders absent from the ship in company or acting together, by the officer in immediate command of such tenders; and

(b) as respects persons, on board any boat or boats belonging to the ship, be exercised when such boat or boats is or are absent on detached service, by the officer in command of the boat or boats; and

(c) as respects persons subject to this Act on detached service either on shore or otherwise, or such of those persons as are not for the time being made subject to military law by an order under section one hundred and seventy-nine of the Army Act, 1881, be exercised by the officer in immediate command of those persons; and

(d) as respects persons subject to this Act quartered in naval barracks be exercised by the officer in command of those barracks.

(4) Except in case of mutiny, no man shall be sentenced by the commanding officer to corporal punishment until his offence has been inquired into by one or more officers appointed by such commanding officer, and his or their opinion as to the guilt or innocence of the person charged reported to such commanding officer, and the commanding officer shall thereupon act as according to his judgment may seem right.

<sup>1</sup> Subs. by the Indian Navy (Discipline) Amendment Act, 1940 (29 of 1940). s. 2 for "corporal punishment shall be deemed equal in degree to imprisonment and".

<sup>2</sup> Subs. by the A. O. 1937, for "G. G. in C."

Forfeiture of  
time or  
seniority .

57. The <sup>1</sup>[Central Government] may impose the punishment of forfeiture of time or seniority of not more than twelve months on any subordinate officer.

Trial of  
officers for  
disciplinary  
offences in  
time of war

57.A. (1) Where any officer borne on the books of <sup>2</sup>any ship of the Indian Navy] in commission is in time of war alleged to have been guilty of a disciplinary offence, that is to say, a breach of section <sup>3</sup>[nine,] seventeen, eighteen, nineteen, twenty-two, twenty-three, twenty-seven, or forty three of this Act, the officer having power to order a court-martial may, if he considers that the offence is of such a character as not to necessitate trial by court-martial, in lieu of ordering a court-martial order a disciplinary court constituted as hereinafter mentioned.

(2) A disciplinary court shall be composed of not less than three nor more than five officers, of whom one shall be a commander or of higher rank.

(3) A disciplinary court shall have power to impose any punishment inferior to detention in the scale hereinbefore contained, but no greater punishment.

(4) The <sup>4</sup>[Central Government] may from time to time frame general orders for regulating the assembling, constitution and procedure and practice of disciplinary courts under this section, and may by those regulations apply, with the necessary modifications, to disciplinary courts the provisions of sections sixty-two to sixty-four and sections sixty-six to sixty-nine of this Act relating to courts martial, and the regulations shall provide for evidence being taken on oath and empower the court to administer oaths for that purpose.

## PART IV.

### COURTS-MARTIAL.

#### *Constitution of Courts-Martial.*

Constitution  
of courts-  
martial.

58. The following regulations are hereby made with respect to courts martial :—

- (1) A court-martial shall consist of not less than five nor more than nine officers ;
- (2) No officer shall be qualified to sit as a member of any court-martial held in pursuance of this Act unless he be a flag officer, captain, commander, lieutenant-commander, or lieutenant of <sup>4</sup>[the Indian Navy] on full pay ;
- (3) A court-martial shall not be held unless at least <sup>5</sup>[two ships of the Indian Navy], not being tenders, and commanded by captains, commanders, lieutenant-commanders, or lieutenants of <sup>4</sup>[the Indian Navy] on full pay, are together at the time when such court-martial is held :

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C."

<sup>2</sup> Subs. by the A. O. 1948, for "any of His Majesty's ships".

<sup>3</sup> Ins. by the Indian Navy (Discipline) Amendment Ordinance, 1941 (9 of 1941), s. 2.

<sup>4</sup> Subs. by the A. O. 1948, for "His Majesty's navy".

<sup>5</sup> Subs. by the A. O. 1948 for "two of His Majesty's ships".

- (4) No officer shall sit on a court-martial who is under twenty-one years of age :
- (5) No court-martial for the trial of a flag officer shall be duly constituted unless the president is a flag officer, and the other officers composing the court are of the rank of captain, or of higher rank :
- (6) No court-martial for the trial of a captain in <sup>1</sup>[the Indian Navy] shall be duly constituted unless the president is a captain or of higher rank, and the other officers composing the court are commanders or officers of higher rank :
- (7) No court-martial for the trial of a person below the rank of captain in <sup>1</sup>[the Indian Navy] shall be duly constituted unless <sup>2</sup>[the president is a substantive or acting commander] or of higher rank nor, if the person to be tried is of the rank of commander, unless in addition to the president two other members of the court are of the rank of commander or of higher rank :
- (8) The prosecutor shall not sit on any court-martial for the trial of a person whom he prosecutes :
- (9) The <sup>3</sup>[Central Government] shall have power to order courts-martial to be held for the trial of offences under this Act, and to grant commissions to any officer of <sup>4</sup>[the Indian Navy] on full pay authorising him to order courts-martial to be held for the trial of such offences .
- (10) An officer holding a commission from the <sup>3</sup>[Central Government] to order courts-martial shall not be empowered to do so if there is present at the place where such court-martial is to be held any officer superior in rank to himself on full pay and in command of one or more of <sup>4</sup>[the ships or vessels of the Indian Navy], although such last-mentioned officer may not hold a commission to order courts-martial, and in such a case such last-mentioned officer may order a court-martial, although he does not hold any commission for the purpose :
- (11) If any officer holding a commission from the <sup>3</sup>[Central Government] to order courts-martial, having the command of a fleet or squadron, and being in foreign parts, die, be re-called, leave his station, or be removed from his command, the officer upon whom the command of the fleet or squadron devolves, and so from time to time the officer who shall have the command of the fleet or squadron, shall, without any commission from the <sup>3</sup>[Central Government], have the same power to order courts-martial as the first-mentioned officer was invested with :
- (12) If any officer holding a commission from the <sup>3</sup>[Central Government] to order courts-martial, and having the command of any fleet or squadron of <sup>5</sup>[the Indian Navy] in foreign parts shall

<sup>1</sup> Subs. by the A. O. 1948 for "His Majesty's navy".

<sup>2</sup> Subs. by s. 2 of the Indian Navy (Discipline) Amendment Ordinance, 1948 (5 of 1948), for "the president is a captain".

<sup>3</sup> Subs. by the A. O. 1937, for "G. G. in C."

<sup>4</sup> Subs. by the A. O. 1948 for "His Majesty's ships or vessels".

<sup>5</sup> Subs. by the A. O. 1948 for "His Majesty's Ships".

detach any part of such fleet or squadron, or separate himself from any part of such fleet or squadron, he may, by commission under his hand, empower, in the first-mentioned case, the commanding officer of the squadron or detachment ordered on such separate service, and in case of his death or ceasing so to command, the officer to whom the command of such separate squadron or detachment shall belong, and in the secondly-mentioned case the senior officer of <sup>1</sup>[the Indian Navy] on the division of the station from which he is absent, to order courts-martial during the time of such separate service, or during his absence from that division of the station (as the case may be), and every such authority shall continue in force until revoked, or until the officer holding it returns to India, or until he comes into the presence of a superior officer, empowered to order courts-martial in the same squadron, detachment, or division of a station, but so that such authority shall revive on the officer holding it ceasing to be in the presence of such a superior officer, and so from time to time as often as the case so requires.

- (13) The officer ordering a court-martial shall not sit thereon:
- (14) The President of every court-martial shall be named by the authority ordering the same, or by any officer empowered by such authority to name the president:
- (15) No commander, lieutenant-commander, or lieutenant shall be required to sit as a member of any court martial when four officers of a higher rank and junior to the president can be assembled at the place where the court martial is to be holden (but the regularity or validity of any court-martial or of the proceedings thereof shall not be affected by any commander, lieutenant-commander, or lieutenant being required to sit, or sitting, thereon, under any circumstances); and when any commander, lieutenant-commander or lieutenant sits on any court-martial the members of it shall not exceed five in number:
- (16) Subject to the foregoing regulations, whenever a court-martial shall be held the officer appointed to preside thereat shall summon all the officers next in seniority to himself present at the place where the court-martial shall be held to sit thereon, until the number of nine, or such number, not less than five, as is attainable, is complete; subject to this proviso, that the admirals and captains being superintendents of His Majesty's dockyards shall not be summoned to sit on courts-martial unless specially directed to do so by orders from the <sup>2</sup>[Central Government].
- <sup>3</sup>[(17) References in the foregoing regulations to officers of the Indian Navy include officers of the Royal Navy who are attached to, or serving with, the Indian Navy.]

<sup>1</sup> Subs. by the A. O. 1948 for "His Majesty's Ships".

<sup>2</sup> Subs. by the A. O. 1937, for "G. O. in C."

<sup>3</sup>Ins. by the A. O. 1948.

*Proceedings of Courts-Martial.*

59. A court-martial under this Act shall be held on board <sup>1</sup>[a ship or vessel of war of the Indian Navy], unless the <sup>2</sup>[Central Government] or the officer who ordered the court-martial in any particular case for reasons to be recorded on the proceedings otherwise direct, in which case the court-martial shall be held at a port at such convenient place on shore as the <sup>2</sup>[Central Government] or the officer who ordered the court-martial shall direct. Where courts-martial to be held.

60. A court-martial held in pursuance of this Act may, if it appears to the court that an adjournment is desirable, be adjourned for a period not exceeding six days, but except where such an adjournment is ordered shall sit from day to day, with the exception of Sundays, until sentence is given, unless prevented from so doing by stress of weather or unavoidable accident and its proceedings shall not be delayed by the absence of any member, so that not less than four are present; and no member shall absent himself unless compelled so to do by sickness or other just cause, to be approved of by the other members of the court, and if any member of a court-martial shall absent himself therefrom, in contravention of this section, he shall be dismissed from His Majesty's service, or shall suffer such other punishment as may be awarded by a court-martial. As to time of sittings of courts-martial.

61. In the absence of the judge advocate of the fleet or his deputy, and in default of any appointment in this behalf by the <sup>2</sup>[Central Government] or by the Officer Commanding the Indian Navy, the officer who is to be the president of the court-martial shall appoint a person to officiate as deputy judge advocate at the trial; and the judge advocate of the fleet for the time being, or his deputy, or the person officiating as deputy judge advocate, at any trial shall administer an oath to every witness appearing at the trial. Appointment of officiating judge advocate.

62. As soon as the court is assembled, the names of the officers composing the court shall be read over to the person charged, who shall be asked if he objects to being tried by any member of the court; if the person charged shall object to any member, the objection shall be decided by the court; if the objection shall be allowed, the place of the member objected to shall be filled up by the officer next in seniority who is not on the court-martial subject to the regulations hereinbefore contained. Proceedings at trial.

The person charged may then raise any other objection which he desires to make respecting the constitution of the court-martial, and the objection shall then be decided by the court, which decision shall be final, and the constitution of the court-martial shall not be afterwards impeached, and it shall be deemed to have been in all respects duly constituted.

63. Before the court shall proceed to try the person charged, the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocate of the fleet, shall administer to every member of the court the following oath; that is to say, Oaths to be administered to members of courts-martial.

‘I do swear that I will duly administer justice according to law, without partiality, favour, or affection; and I do further swear that I will not on any account, at any time whatsoever, dis-

<sup>1</sup> Subs. by the A. O. 1948 for "one of His Majesty's ships or vessels of war"

<sup>2</sup> Subs. by the A. O. 1937, for "G. G. in C."

close or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

So help me God.':

Provided that an affirmation to the same effect in such terms as the <sup>1</sup>[Central Government] may prescribe in this behalf may be substituted for such oath.

**Oaths to be administered to judge advocate, etc.**

64. As soon as the said oath shall be administered to the members of the court-martial, the president shall administer to the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocate, the following oath:

'I do swear that I will not upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court-martial, unless thereunto required in due course of law.

So help me God.':

Provided that an affirmation to the same effect in such terms as the <sup>1</sup>[Central Government] may prescribe in this behalf may be substituted for such oath.

**Power to Central Government to apply general orders framed by Admiralty for practice of courts-martial.**

65. The <sup>1</sup>[Central Government] may apply to the Indian Navy such general orders altering and regulating the procedure and practice of courts-martial as may from time to time be framed by the Admiralty and approved by His Majesty in Council subject to such modifications as the <sup>2</sup>[Central Government] may deem necessary to adapt them to the circumstances of the Indian Navy:

Provided that no modification shall be made which involves any racial discrimination.

**Summoning witnesses.**

66. Every person, civil, naval, and military, or belonging to the air force, who may be required to give evidence before a court-martial shall be summoned by writing under the hand of a Secretary to the <sup>2</sup>[Central Government], or by the deputy judge advocate, or the person appointed to officiate as deputy judge advocate at the trial; and all persons so summoned and attending as witnesses before any court-martial shall, during their necessary attendance in or on such court, and in going to and returning from the same, be privileged from arrest, and shall, if unduly arrested, be discharged by the court out of which the writ or process issued by which such witness was arrested, or if such court be not sitting, then by any judge of the Superior Courts of Westminster or Dublin, or the Court of Session in Scotland, or of the courts of law in the East or West Indies or elsewhere, according as the case shall require, upon its being made to appear to such court or judge, by any affidavit in a summary way, that such witness was arrested in going to or returning from or attending upon such court-martial; and all witnesses so duly summoned as aforesaid who make default in attending on such courts or attending refuse to be sworn or make affirmation, or being sworn or having made affirmation refuse to give evidence or to answer all such questions as the court may legally demand of them, or prevaricate in giving their evidence

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C."

<sup>2</sup> Subs. by the A. O. 1937, for "G. of I."

shall, upon certificate thereof under the hand of the president of such court-martial, be liable to be attached in the Court of Queen's Bench in London or Dublin, or the Court of Session, or Sheriff depute or stewards depute, or their respective substitutes, within their several shires and stewartries in Scotland, or courts of law in the East or West Indies, or in any of His Majesty's colonies, garrisons, or dominions in Europe or elsewhere, respectively upon complaint made, in like manner as if such witness after having been duly summoned and subpoenaed had neglected to attend on a trial in any proceeding in the court in which such complaint is made, or had refused to be sworn, or on being sworn had refused to give evidence, or to answer all such questions as the court may legally demand, or had prevaricated in giving evidence, or, if the court-martial shall think fit, in case any such person, who is subject to this Act, being called upon to give evidence at any court-martial, shall refuse or neglect to attend to give his evidence upon oath or affirmation, or shall prevaricate in his evidence, or behave with contempt to the court, such court-martial may punish every such offender by imprisonment, or, if the offender is a person liable to be sentenced to detention under this Act, by detention not longer than three months in case of such refusal, neglect, or prevarication, nor longer than one month in the case of such contempt; and every person not subject to this Act who may be so summoned to attend shall be allowed and paid his reasonable expenses for such attendance, under the authority of the <sup>1</sup>[Central Government], or of the president of the court-martial on a foreign station.

67. Every person who, upon any examination upon oath or upon affirmation before any court-martial held in pursuance of this Act, shall make any statement which is false and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have committed the offence of giving false evidence; and every such offence, wheresoever committed, shall be triable and punishable in <sup>2</sup>[any Province of India].

**Penalty on persons giving false evidence.**

68. Where it shall appear upon the trial by court-martial of any person charged with an offence that such person is insane, the court shall find specially the fact of his insanity, and shall order such person to be kept in strict custody in such place and in such manner as the court shall deem fit until the directions of the <sup>1</sup>[Central Government] thereupon are known, and it shall be lawful for the <sup>1</sup>[Central Government] to give orders for the safe custody of such person during His Majesty's pleasure in such place and in such manner as <sup>3</sup>[it] shall think fit.

**Where persons are insane at the time of offence or trial.**

69. Every judge advocate, or deputy judge advocate, or person officiating as deputy judge advocate, shall transmit with as much expedition as may be the original proceedings, or a complete and authenticated copy thereof and the original sentence of every court-martial attended by him, to the Officer Commanding the Indian Navy or senior officer, who shall transmit them to the <sup>1</sup>[Central Government] for the time being; and any person tried by a court-martial shall be entitled, on demand, to a copy of such proceedings and sentence (upon payment for the same at the rate of three annas per kilo of seventy-two words), but no such demand shall be allowed after the space of three years from the date of the final decision of such court.

**Report of proceedings of courts-martial to be transmitted.**

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C."

<sup>2</sup> Subs. by the A. O. 1948, for "British India".

<sup>3</sup> Subs. by the A. O. 1937, for "they".



**Evidence of rank, etc., of officers.** 69A. A Navy List or Gazette purporting to be published by authority of the Government, or either to be printed by a Government printer or to be issued by His Majesty's Stationery Office, shall be evidence of the status and rank of the officers therein mentioned and of any appointment held by such officers until the contrary is proved.

## PART V.

### PENAL SERVITUDE AND PRISONS.

#### *Penal Servitude.*

**Sentence of penal servitude.** 70. Where a person is in pursuance of this Act convicted by a court-martial, and either is sentenced or has his sentence commuted to penal servitude, such conviction and sentence shall be of the same effect as if such person had been convicted by a civil court in <sup>1</sup>a province of India of an offence punishable by penal servitude and sentenced by that court to penal servitude, and all enactments relating to a convict so sentenced shall, so far as circumstances admit, apply accordingly; and the said convict shall be removed to some prison in which a convict so sentenced by a civil court in <sup>1</sup>a province of India can be confined either permanently or temporarily, and the order of the <sup>2</sup>[Central Government] or of the Officer Commanding the Indian Navy, or of the officer ordering the court-martial by whom such person was convicted, shall be a sufficient warrant for the transfer of the said person to such prison to undergo his sentence according to law, and until he reaches such prison for detaining him in naval custody, or in any civil prison or place of confinement.

**Subsistence of offender.** 72. In case any such offender shall be conveyed to any prison, not being a naval prison appointed by virtue of this Act, an allowance such as the <sup>2</sup>[Central Government] shall from time to time direct shall be made to the governor, keeper, or superintendent of the gaol or prison for the subsistence of such offender while he is detained therein, and such allowance shall be paid by order of the <sup>2</sup>[Central Government] upon production by the said governor, keeper, or superintendent of a declaration, to be made by him before a Magistrate, of the number of days during which the offender has been so detained and subsisted in such gaol or prison.

**Imprisonment of offender already under sentence for previous offence.** 73. Whenever sentence shall be passed by a court-martial on an offender already under sentence either of detention, imprisonment, or penal servitude, passed upon him under this Act for a former offence, the court may award sentence of detention, imprisonment, or penal servitude for the offence for which he is under trial to commence at the expiration of the detention, imprisonment, or penal servitude to which he has been previously sentenced, although the aggregate of the terms of detention, imprisonment, or penal servitude may exceed the term for which any of those punishments could be otherwise awarded :

<sup>1</sup>Subs. by the A. O. 1948, for "British India."

<sup>2</sup>Subs. by the A. O. 1927, for "G. G. in C."

Provided that nothing in this section shall cause a person to undergo imprisonment or detention for any period exceeding in the aggregate two consecutive years, and so much of any term of imprisonment or detention imposed on a person by a sentence in pursuance of this section as would prolong the total term of his punishment beyond that period shall be deemed to be remitted.

#### *Prisons.*

74. (1) Every term of penal servitude, imprisonment, or detention in pursuance of this Act shall be reckoned as commencing on the day on which the sentence was awarded, and the place of imprisonment or detention, whether the imprisonment or detention was awarded as an original or as a commuted punishment, shall be such place as may be appointed by the court or the commanding officer awarding the punishment, or which may from time to time be appointed by the <sup>1</sup>[Central Government], and may, in the case of imprisonment, be one of the naval prisons appointed under this Act, or naval detention quarters, or any common gaol, house of correction, or military prison or detention barrack, and may in the case of detention be any naval detention quarters or a military detention barrack within His Majesty's dominions.

**Term and place of imprisonment**

(2) Where, by reason of a ship being at sea or of a place at which there is no proper prison, or naval detention quarters, a sentence of imprisonment, or detention, as the case may be, cannot be duly executed, then, subject as hereinafter mentioned, an offender under sentence of imprisonment or detention, as the case may be, may be sent with all reasonable speed to some place at which there is a proper prison or naval detention quarters, or, in the case of an offender under sentence of detention, to some place at which there are naval detention quarters, in which the sentence can be duly executed, and on arrival there the offender shall undergo his sentence, in like manner as if the date of such arrival were the day on which the sentence was awarded, and that notwithstanding that in the meanwhile he has returned to his duty or become entitled to his discharge; and the term of imprisonment or detention, as the case may be, shall be reckoned accordingly, subject however to the deduction of any time during which he has been kept in confinement in respect of the said sentence.

(3) Where in pursuance of this Act a person is sentenced to imprisonment or detention the order of the <sup>1</sup>[Central Government] or of the Officer Commanding the Indian Navy, or of the officer ordering the court-martial by which such person was sentenced, or, if he was sentenced by the commanding officer of a ship, the order of such commanding officer, shall be a sufficient warrant for the sending of such person to the place of imprisonment or detention, there to undergo his sentence according to law, and until he reaches such place of imprisonment or detention for detaining him in naval custody, or in the case of a person sentenced to imprisonment in any civil prison or place of confinement.

74A. Where a person has been sentenced to penal servitude or imprisonment or detention the <sup>1</sup>[Central Government] or officer who by virtue of sub-section (3) of section seventy-four of this Act has power to issue an order of committed (hereinafter in this section referred to as "the committing au-

**Power to suspend sentence,**

<sup>1</sup> Subs. by the A. O 1937, for "G. G. in C.":

thority<sup>1</sup>) may, in lieu of issuing such an order, order that the sentence be suspended until an order of committal is issued, and in such case—

- (a) Notwithstanding anything in this Act, the term of the sentence shall not be reckoned as commencing until an order of committal is issued ;
- (b) The case may at any time, and shall at intervals of not more than three months, be reconsidered by the <sup>1</sup>[Central Government] or committing authority, or an officer holding such command as the <sup>1</sup>[Central Government] may by regulation prescribe, and, if on any such reconsideration it appears to the <sup>1</sup>[Central Government] or committing authority or officer that the conduct of the offender since his conviction has been such as to justify a remission of the sentence the <sup>1</sup>[Central Government] or committing authority or officer shall remit the whole or any part of it ;
- (c) Subject to regulations made by the <sup>1</sup>[Central Government] the <sup>1</sup>[Central Government] or committing authority, or an officer holding such command as the <sup>1</sup>[Central Government] may by regulation prescribe, may at any time whilst the sentence is suspended issue an order of committal and thereupon the sentence shall cease to be suspended ;
- (d) Where a person subject to this Act, whilst a sentence on him is so suspended, is sentenced to penal servitude or imprisonment or detention for any other offence then, if he is at any time committed either under the suspended sentence or under any such subsequent sentence, and whether or not any such subsequent sentence has also been suspended, the committing authority may direct that the two sentences shall run either concurrently or consecutively, so, however, as not to cause a person to undergo imprisonment or detention for a period exceeding the aggregate of two consecutive years, and where the sentence for such other offence is a sentence of penal servitude, then, whether or not that sentence is suspended, any previous sentence of imprisonment or detention which has been suspended shall be avoided.

When a person has been sentenced to penal servitude or imprisonment or detention and an order of committal has been issued, the <sup>1</sup>[Central Government] or the committing authority, or an officer holding such command as the <sup>1</sup>[Central Government] may by regulation prescribe, may order the sentence to be suspended, and in such case the person whose sentence is suspended shall be discharged and the currency of the sentence shall be suspended until he is again committed under the same sentence, and the foregoing paragraphs (b), (c) and (d) of this section shall apply in like manner as in the case where a sentence has been suspended before an order of committal has been issued.

Where a sentence is suspended under this section, whether before or after committal, the <sup>1</sup>[Central Government] or, subject to any regulation or direction which may be issued by the <sup>1</sup>[Central Government], the committing authority or officer by whom the sentence is suspended may, not-

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C."

withstanding anything in section fifty-three of this Act, direct that any penalty which is involved by the punishment of penal servitude or imprisonment or detention either shall be or shall not be remitted or suspended.

75. Whenever it is deemed expedient it shall be lawful for the <sup>1</sup>[Central Government], the Officer Commanding the Indian Navy, or senior naval officer present by any order in writing from time to time to change the place of confinement of any offender imprisoned or sentenced to be imprisoned or detained in pursuance of this Act or of any offender undergoing or sentenced to undergo detention, and the gaoler or other person having the custody of such offender shall immediately on the receipt of such order remove such offender to the gaol, prison, or house of correction, or, in the case of an offender undergoing or sentenced to undergo detention, to the naval detention quarters mentioned in the said order, or shall deliver him over to naval custody for the purpose of the offender being removed to such prison or naval detention quarters; and every gaoler or keeper of such last-mentioned prison, gaol, or house of correction or naval detention quarters shall, upon being furnished with a copy of such order of removal, attested by a Secretary to the <sup>2</sup>[Central Government] for the time being, received into his custody and shall confine pursuant to such sentence or order every such offender.

Place of imprisonment may be changed etc.

76. The gaoler or other person removing any offender in pursuance of such order shall be allowed for the charges of such removal a sum not exceeding twelve annas a mile, and when any offender is not confined in a naval prison or naval detention quarters the gaoler or other person in whose custody any such offender may be shall receive such an allowance as the <sup>1</sup>[Central Government] shall from time to time direct for every day that such offender is in his custody, to be applied towards his subsistence and such sum shall be paid to the said gaoler or other person under the authority of the <sup>1</sup>[Central Government], upon the application in writing made to the <sup>1</sup>[Central Government] by the District Magistrate or Presidency Magistrate within whose jurisdiction such gaol, prison, or house of correction shall be situate, with a copy of the sentence or order under which the offender is confined.

Expenses of removal or subsistence of prisoners.

78. Whenever any offender is undergoing imprisonment or detention in pursuance of this Act, it shall be lawful for the <sup>1</sup>[Central Government] or where an offender is undergoing imprisonment or detention by order of his commanding officer, for such commanding officer or the <sup>1</sup>[Central Government] to give an order in writing directing that the offender be discharged; and it shall also be lawful for the <sup>1</sup>[Central Government] and any officer commanding <sup>3</sup>[any ship of the Indian Navy] by order in writing, to direct that any such offender be delivered over to naval custody for the purpose of being brought before a court-martial, either as a witness, or for trial or otherwise, and such offender shall accordingly, on the production of any such order, be discharged, or be delivered over to such custody.

Proviso for discharge or removal of prisoners.

79. The time during which any offender under sentence of imprisonment or detention is detained in naval custody shall be reckoned as imprisonment.

Proviso as to time of detention in naval custody.

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C."

<sup>2</sup> Subs. by the A. O. 1937 for "G. of I."

<sup>3</sup> Subs. by the A. O. 1946, for "any of His Majesty's Ships".

or detention under his sentence for whatever purpose he is so detained ; and the governor, gaoler, keeper, or superintendent who shall deliver over any such offender shall again receive him from naval custody, so that he may undergo the remainder of his punishment.

In case of  
insanity  
prisoners to  
be removed  
to some  
lunatic  
asylum.

80. If any person imprisoned or undergoing detention by virtue of this Act shall become insane, and a certificate to that effect shall be given by two physicians or surgeons, the <sup>1</sup>[Central Government] shall, by warrant, direct the removal of such person to such lunatic asylum or other proper receptacle for insane persons is <sup>2</sup>[The Provinces of India] as <sup>3</sup>[it] may judge proper for the unexpired term of his imprisonment or detention ; and if any such person shall in the same manner be certified to be again of sound mind, the <sup>1</sup>[Central Government] may issue a warrant for his being removed to such prison or place of confinement or in the case of a person sentenced to detention, such naval detention quarters as may be deemed expedient, to undergo the remainder of his punishment, and every gaoler or keeper of any prison, gaol, or house of correction shall receive him accordingly. This section shall not apply to persons imprisoned in England.

Central  
Government  
may set  
apart build-  
ings and  
ships as  
naval prisons

81. (1) The <sup>1</sup>[Central Government] may set apart any buildings or vessels, or any parts thereof, as naval prisons or naval detention quarters, and any buildings or vessels, or parts of buildings or vessels, so set apart as naval prisons or naval detention quarters, as the case may be, shall be deemed to be naval prisons or naval detention quarters respectively within the meaning of this Act.

(2) The <sup>1</sup>[Central Government] shall have the same power and authority in respect to naval prisons and naval detention quarters respectively as one of His Majesty's Principal Secretaries of State has in relation to military prisons and detention barracks respectively under section one hundred and thirty-three of the Army Act, 1881, and that section shall apply as if it were herein re-enacted with the substitution of " the <sup>1</sup>[Central Government] " for " a Secretary of State ", and of " naval " for " military ", and of " naval detention quarters " for " detention barrack ", and rules and regulations may be made accordingly by the <sup>1</sup>[Central Government].

44 & 45  
Vict., c 59.

Penalties on  
aiding escape  
or attempt  
to escape  
of prisoners  
and on  
breach of  
prison  
regulations.

82. If any person shall convey or cause to be conveyed into any such naval prison or any such naval detention quarters any arms, tools, or instruments, or any mask or other disguise to facilitate the escape of any prisoner or person undergoing detention or by any means whatever shall aid any prisoner or person undergoing detention to escape or in an attempt to escape from such prison or naval detention quarters, whether an escape be actually made or not, such person shall be punished with imprisonment, which may be either rigorous or simple, for any term not exceeding two years, or suffer penal servitude for any term not exceeding fourteen years ; and if any person shall bring or attempt to bring into such prison or naval detention quarters, in contravention of the rules, any spirituous or fermented liquor, he shall for every such offence be liable to a penalty not exceeding two hundred rupees and not less than one hundred rupees ; and if any person shall bring into such prison or naval detention quarters or to or for any prisoner or person undergoing detention, without the knowledge of the officer having charge or com-

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C."

<sup>2</sup> Subs. by the A. O. 1948, for "British India".

<sup>3</sup> Subs by the A. O. 1937, for "he".

mand thereof, any money, clothing, provisions, tobacco, letters, papers, or other articles not allowed by the rules of the prison or naval detention quarters, to be in the possession of a prisoner or person undergoing detention, or shall throw into the said prison or naval detention quarters any such articles, or by desire of any prisoner or person undergoing detention, without the sanction of the said officer, shall carry out of the prison or naval detention quarters any of the articles aforesaid, he shall for every such offence be liable to a penalty not exceeding fifty rupees; and if any person shall interrupt any officer of such prison or naval detention quarters in the execution of his duty, or shall aid or excite any person to assault, resist, or interrupt any such officer, he shall for every such offence be liable to a penalty not exceeding fifty rupees, or if the offender be a prisoner or person undergoing detention, he shall be punished with imprisonment, which may be either rigorous or simple, for any time not exceeding six calendar months, in addition to so much of the time for which he was originally sentenced as may be then unexpired, and every such penalty shall be applied as the <sup>1</sup>[Central Government] shall direct, any law, statute, charter, or custom to the contrary notwithstanding.

83. Every governor, gaoler, and keeper of any prison, gaol or house of correction or of any naval detention quarters, and every officer having the charge or command of any place, ship, or vessel for imprisonment, who shall, without lawful excuse, refuse or neglect to receive or confine, remove, discharge, or deliver up any offender against the provisions of this Act, or any of them, shall incur for every such refusal or neglect a penalty not exceeding one thousand rupees and every such penalty shall be applied as the <sup>1</sup>[Central Government] shall direct, any law statute, charter, or custom to the contrary, notwithstanding.

Penalty as regards gaolers, etc.

## PART VI

### SUPPLEMENTAL PROVISIONS.

84. This Act may be cited for all purposes as the Naval Discipline Act. **Short title.**

85. Except as otherwise provided, this Act shall be in force within the United Kingdom; and as regards the United Kingdom the enactments described in the schedule to this Act shall be repealed from and after one calendar month from the passing hereof; and as regards elsewhere this Act shall be in force, and the said enactments shall be repealed, from and after six calendar months from the passing hereof.

Extent and repeal.

86. In the construction of this Act, unless there be something in the context or subject matter repugnant to or inconsistent with such construction,

Definition of terms.

"Admiralty", or "the Lords of the Admiralty", shall mean the Lord High Admiral for the time being of the United Kingdom of Great Britain and Ireland, and when there shall be no such Lord High Admiral in office, any two or more of the Commissioners for executing the office of Lord High Admiral of the United Kingdom;

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C."

"Officer" shall mean an officer belonging to <sup>1</sup>[a ship of the Indian Navy] and shall include a subordinate and a warrant officer; other than a warrant officer, Class II, of the Royal Marines, and shall include also <sup>2</sup>[an officer holding any such position in the Indian Naval Reserve Forces during and in respect of the time when he is subject to the provisions of this Act], but shall not extend to petty and non-commissioned officers ;

When the words "superior officer" are used in this Act they shall be held to include all officers, warrant officers, petty and non-commissioned officers.

Person  
subject to  
this Act.

87. Every person in or belonging to <sup>3</sup>[the Indian Navy], and borne on the books of <sup>4</sup>[any ship of the Indian Navy] in commission and every member of <sup>5</sup>[the Indian Naval Reserve Forces to the extent specified in section 4 of the Indian Naval Reserve Forces (Discipline) Act, 1939] shall be subject to this Act; and all other persons hereby or by any other Act made liable thereto shall be triable and punishable under the provisions of this Act.

Land and  
air forces  
embarked as  
passengers.

88. His Majesty's land and air forces, when embarked on board <sup>6</sup>[any ship of the Indian Navy], shall be subject to the provisions of this Act to such extent and under such regulations <sup>6</sup>[as the Central Government may from time to time direct].

Other per-  
sons embar-  
ked as pass-  
engers

89. All other persons ordered to be received or being passengers on board <sup>7</sup>[any ship of the Indian Navy] shall be deemed to be persons subject to this Act, under such regulations as the <sup>7</sup>[Central Government] may from time to time direct.

Provision re-  
specting  
discipline  
of persons  
under  
engagement  
to serve His  
Majesty.

<sup>8</sup>[90. (1) If any person who would not otherwise be subject to this Act enters into an engagement with the Central Government to serve His Majesty—

(a) in a particular ship, or

(b) in such particular ship or in such ships as the Officer Commanding the Indian Navy or any officer empowered in this behalf by the Officer Commanding the Indian Navy, may from time to time determine,

and agrees to become subject to this Act upon entering into the engagement, that person shall, so long as the engagement remains in force, and notwithstanding that for the time being he may not be serving in any ship, be subject to this Act, and the provisions of this Act shall apply in relation to that person, as if, while subject to this Act, he belonged to <sup>3</sup>[the Indian Navy] and were borne on the books of <sup>9</sup>[a ship of the Indian Navy] in commission.

<sup>1</sup> Subs. by the A. O. 1948, for "one of His Majesty's ships".

<sup>2</sup> Subs. by the Indian Naval Reserve Forces (Discipline) Act, 1939, s. 8 for "a person holding any such position in the Indian Naval Volunteer Reserve during and in respect of the time when he is serving in the Indian Navy."

<sup>3</sup> Subs. by the A. O. 1948, for "His Majesty's Navy".

<sup>4</sup> Subs. by the A. O. 1948, for "any of His Majesty's ships".

<sup>5</sup> Subs. by the Indian Naval Reserve Forces (Discipline) Act, 1939, s. 8 for "the Indian Naval Volunteer Reserve during and in respect of the time when he is serving in the Indian Navy, whether for training or exercise or having been called up for any duty or service for which as a member of such Reserve he is liable".

<sup>6</sup> Subs. by the A. O. 1948 for "as His Majesty, His heirs and successors, by any Order or Orders in Council, shall at any time or times direct".

<sup>7</sup> Subs. by the A. O. 1937 for "G. G. in C".

<sup>8</sup> Subs. by the Indian Navy (Discipline) (Amendment) Act, 1947 (8 of 1947), s. 2 for the original section as amended by the A. O. 1937 and subs. by the Defence of India Act, 1939 (35 of 1939) and continued in force by Ordinance 20 of 1946.

<sup>9</sup> Subs. by the A. O. 1948 for "one of His Majesty's ships".

(2) The Central Government may by order direct that, subject to such exceptions as may in particular cases be made by or on behalf of the Officer Commanding the Indian Navy, persons of any such class as may be specified in the order shall, while subject to this Act by virtue of this section, be deemed to be officers or petty officers, as the case may be, for the purposes of this Act or of such provisions of this Act as may be so specified; and any such order may be varied or revoked by a subsequent order.]

90A. (1) Where an officer or non-commissioned officer, not below the rank of sergeant, is a member of a body of His Majesty's military forces acting with, or is attached to, any body of His Majesty's naval forces <sup>1</sup>[under such conditions as may be or may have been prescribed] by regulations made by the Admiralty and Army Council, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, he shall, in relation to such body of His Majesty's naval forces as aforesaid, be treated, and may exercise all such powers (other than powers of punishment), as if he were a naval officer or petty officer, as the case may be.

**Relations between military, naval, and air forces acting together.**

(1A) Where an officer or non-commissioned officer, not below the rank of sergeant, is a member of a body of His Majesty's air force acting with any body of His Majesty's naval forces <sup>1</sup>[under such conditions as may be or may have been prescribed] by regulations made by the Admiralty and Air Council, and such officer or non-commissioned officer is not borne on the books of <sup>2</sup>[any ship of the Indian Navy] in commission, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, he shall, in relation to such body of His Majesty's naval forces as aforesaid, be treated, and may exercise all such powers (other than powers of punishment), as if he were a naval officer or petty officer, as the case may be.

(2) Where any naval officer or seaman is a member of a body of His Majesty's naval forces acting with or is attached to any body of His Majesty's military forces <sup>1</sup>[under such conditions as may be or may have been prescribed] by regulations made by the Admiralty and Army Council, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, the officers and non-commissioned officers, not below the rank of sergeant, of such military body shall, in relation to him, be treated, and may exercise all such powers (other than powers of punishment), as if they were naval officers and petty officers.

(2A) Where any naval officer or seaman is a member of a body of His Majesty's naval forces acting with any body of His Majesty's air force <sup>1</sup>[under such conditions as may be or may have been prescribed] by regulations made by the Admiralty and Air Council, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, the officers and non-commissioned officers, not below the rank of sergeant, of such body of the air force shall, in relation to him, be treated, and may exercise all such powers (other than powers of punishment), as if they were naval officers and petty officers.

(3) The relative rank of naval and military and air force officers, petty officers, and non-commissioned officers shall, for the purposes of this section,

<sup>1</sup> Subs. by the Indian Navy (Discipline) Amendment Ordinance, 1942 (50 of 1942), s. 2 for "under such conditions as may be prescribed".

<sup>2</sup> Subs. by the A. O. 1948 for "any of His Majesty's ships".



ne such as is provided by the King's Regulations and Admiralty Instructions for the time being in force.

**Provisions respecting naval officers and seaman in ships of self governing Dominions.**

90B. (1) Any person in or belonging to His Majesty's Navy and any officer or man of the Royal Marines who, by order of the Admiralty or of the Commander-in-Chief or the Senior Naval Officer present on a foreign station, is serving in a ship of or belonging to the naval forces of a self-governing Dominion <sup>1</sup>\* \* \* (provided such ship is not at the time placed at the disposal of the Admiralty), or in a naval establishment of a self-governing Dominion <sup>1</sup>\* \* \* or who is on board such ship or in such establishment as aforesaid awaiting passage or conveyance to any destination shall, for all purposes of command and discipline, be subject to the laws and customs for the time being applicable to the ships and naval forces of such self-governing Dominion <sup>1</sup>\* \* \*.

(2) For the purposes of this section, the expression "self-governing Dominion" includes the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

**Persons serving in a ship of the Royal or Dominion Navy to be subject to the laws and customs thereof.**

90C. (1) Any person in or belonging to the Indian Navy, who, by order of the <sup>2</sup>[Central Government], <sup>3</sup>[or of any naval officer authorised by the Central Government in this behalf] is serving in a ship belonging to His Majesty's Navy or to the naval forces of a self-governing Dominion <sup>4</sup>\* \* \* or in a naval establishment of His Majesty's Navy or a self-governing Dominion <sup>4</sup>\* \* \*, or who is on board any such ship or in any such establishment awaiting passage or conveyance to any destination shall, for all purposes of command and discipline, be subject to the laws and customs for the time being applicable to the Royal Navy or the ships and naval forces of the self-governing Dominion <sup>4</sup>\* \* \*, as the case may be.

(2) For the purposes of this section, the expression "self-governing Dominion" includes the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, <sup>5</sup>[Newfoundland, and, Pakistan and Ceylon].

**Crews of ships lost or destroyed.**

91. When <sup>6</sup>[any ship of the Indian Navy] shall be wrecked or lost or destroyed, or taken by the enemy, such ship shall, for the purposes of this Act, be deemed to remain in commission until her crew shall be regularly removed into <sup>7</sup>[some other ship of war of the Indian Navy] or until a court-martial shall have been held, pursuant to the custom of the navy in such cases, to inquire into the cause of the wreck, loss, destruction, or capture of the said ship.

**All the officers and crew of lost ship may be tried by one court.**

92. When no specific charge shall be made against any officer or seaman or other person in the fleet for or in respect or in consequence of such wreck, loss, destruction, or capture, it shall be lawful to try all the officers and crew, or all the surviving officers and crew of any such ship, together, before one and the same court, and to call upon all or any of them when upon their trial to give evidence on oath or affirmation before the court touching any of the

<sup>1</sup> The words "or of India" rep. by the A. O. 1948.

<sup>2</sup> Subs. by the A. O. 1937 for "G. G. in C".

<sup>3</sup> Ins. by the Indian Navy (Discipline) Amendment Ordinance, 1944 (17 of 1944), s. 2.

<sup>4</sup> The words "or Burma" inserted by the Indian Navy (Discipline) Second Amendment Act, 1949 (30 of 1949) were rep. by the A. O. 1948.

<sup>5</sup> Subs. by the A. O. 1948 for "and Newfoundland".

<sup>6</sup> Subs. by the A. O. 1948 for "any one of His Majesty's ships".

<sup>7</sup> Subs. by the A. O. 1948, for "some other of His Majesty's ships of war".

matters then under inquiry, but no officer or seaman or other person shall be obliged to give any evidence which may tend to criminate himself.

93. When deemed necessary by the [Central Government] or any officer authorised to order courts-martial, separate courts-martial shall be held for the trial of some one or more of such officers and crew for or in respect or in consequence of the wreck, loss, destruction, or capture of any such ship.

or by  
separate  
courts.

94. For any offence or offences committed by any officer or seaman, or officers and seamen, after the wreck, loss, destruction, or capture of any such ship, a separate court-martial shall be held for the trial of such offender or offenders.

For subse-  
quent offense,  
separate  
court.

95. When any [ship of the Indian Navy] shall be wrecked, lost, or otherwise destroyed, or taken by the enemy, if it shall appear by the sentence of a court-martial that the crew of such ship did, in the case of a ship wrecked or lost, do their utmost to save her or get her off, and in the case of a ship taken by the enemy did their utmost to defend themselves, and that they have, since the wreck, destruction, loss, or capture of such ship, behaved themselves well and been obedient to their officers, then all the pay of such crews, or of such portions of such crews as have behaved themselves well and been obedient to their officers, shall be continued until the time of their being discharged or removed into other [ships of the Indian Navy], or dying.

Pay of crews  
of ships lost  
or taken.

96. If the ship of any officer ordered to command any two or more [ships of the Indian Navy] shall be wrecked, lost, or otherwise destroyed, such officer shall continue in the command of any ship or ships which at the time of his ship being wrecked, lost, or destroyed was or were under his command, and it shall be lawful for such officer to order the surviving officers and crew of the wrecked, lost, or destroyed ship to join any other ship under his command, or to distribute them among the other ships under his command, if more than one, and such officer shall, until he meets with some other officer senior to himself, have the same power and authority in all respects as if his ship had not been wrecked, lost, or destroyed.

When ship of  
senior officer  
is lost he  
may dispose  
of officers  
and crew  
of lost ship.

97. It shall not be lawful for any person to arrest any petty officer or seaman, non-commissioned officer of marines or marine, belonging to any [ship of the Indian Navy] by any warrant, process, or writ issued in any part of His Majesty's dominions for any debt, unless the debt was contracted at a time when the debtor did not belong to His Majesty's service, nor unless before the issuing of the warrant, process, or writ, the plaintiff in the suit or some person on his behalf has made an affidavit in the court out of which it is issued, that the debt justly due to the plaintiff (over and above all costs) was contracted at a time when the debtor did not belong to His Majesty's service, nor unless a memorandum of such affidavit is marked on the back of the warrant, process, or writ.

Restriction  
on arrest of,  
seamen, etc.,  
for debt.

98. If any petty officer or seaman, non-commissioned officer of marines or marine, is arrested in contravention of the provisions of the last foregoing section, the court out of which the warrant, process, or writ issues, or any judge thereof, may, on complaint by the party arrested, or by his superior officer, investigate the case on oath or otherwise, and if satisfied that the

Discharge  
from arrest.

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C."

<sup>2</sup> Subs. by the A. O. 1948 for "ship of His Majesty".

<sup>3</sup> Subs. by the A. O. 1948 for "ships of His Majesty".

<sup>4</sup> Subs. by the A. O. 1948 for "of His Majesty's ships".

arrest was made in contravention of the provisions of the last foregoing section, may make an order for the immediate discharge of the party arrested, without fee, and may award to the complainant the costs of his complaint, to be taxed by the proper officer, for the recovery whereof he shall have the like remedy as the plaintiff in the suit would have on judgment being given in his favour, with costs.

**Liability of  
seamen, etc.,  
for maintenance of  
wives and  
children.**

98A. (1) A person subject to this Act shall be liable to contribute to the maintenance of his wife and of his children, legitimate or illegitimate, to the same extent as if he were not so subject ; but execution in respect of any such liability or of any decree or order in respect of such maintenance shall not issue against his person, pay, arms, ammunition, equipments, instruments or clothing.

(2) Where—

- (a) it appears to the satisfaction of the <sup>1</sup>[Central Government] or any person deputed by <sup>2</sup>[it] for the purpose that a person subject to this Act has deserted or left in destitute circumstances, without reasonable cause, his wife or any of his legitimate children under fourteen years of age ; or
- (b) any decree or order is made under any law for payment by a man who is or subsequently becomes subject to this Act either of the cost of the maintenance of his wife or child, or of the cost of any relief given to his wife or child by way of loan, and a copy of such decree or order is sent to the <sup>3</sup>[Central Government] or any person deputed by <sup>2</sup>[it] for the purpose ;

the <sup>1</sup>[Central Government] or the person so deputed may direct to be deducted from the pay of the person so subject to this Act, and to be appropriated towards the maintenance of his wife or children, or in liquidation of the sum adjudged to be paid by such decree or order, as the case may be, in such manner as the <sup>1</sup>[Central Government] or the person so deputed may think fit, a portion of such pay, at <sup>3</sup>[his or his] discretion, but the amount deducted shall not exceed the amount fixed by the decree or order (if any), and shall not be a higher rate than the rates fixed by rules made in this behalf by the <sup>1</sup>[Central Government] :

Provided that no such deductions from pay in liquidation of a sum adjudged to be paid by a decree or order as aforesaid shall be ordered unless the <sup>1</sup>[Central Government], or the person deputed by <sup>2</sup>[it] is satisfied that the person against whom the decree or order was made has had a reasonable opportunity of appearing himself, or has appeared by a duly authorised legal representative, to defend the case before the court by which the decree or order was made, and a certificate, purporting to be a certificate of the commanding officer of the ship on which he was or is serving, or on the books of which he was or is borne, that the person has been prevented by the requirements of the service from attending at a hearing of any such case shall be evidence of the fact unless the contrary is proved.

Where any arrears have accumulated in respect of sums adjudged to be paid by any such decree or order as aforesaid whilst the person against

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C."

<sup>2</sup> Subs. by the A. O. 1937, for "him".

<sup>3</sup> Subs. by the A. O. 1937, for "his".

whom the decree or order was made was serving under this Act, whether or not deductions in respect thereof have been made from his pay under this section, then after he has ceased so to serve an order of committal shall not be made in respect of those arrears unless the court is satisfied that he is able, or has, since he has ceased so to serve, been able to pay the arrears or any part thereof and has failed to do so.

(3) Where a proceeding under any law is instituted against a person subject to this Act for the purpose of enforcing against him any such liability as above in this section mentioned, the process may be served on the commanding officer of the ship on which he is serving or on the books of which such person is borne, or where, by reason of the ship being at sea or otherwise, it is impracticable to serve the process on such commanding officer, the process may, after not less than three weeks' notice to the <sup>1</sup>[Central Government], be served by being sent to a Secretary to the <sup>2</sup>[Central Government] for transmission to such commanding officer, but such service shall not be valid unless there is left therewith in the hands of such commanding officer or <sup>1</sup>[Central Government] such sum of money, if any (to be adjudged as costs incurred in obtaining the decree or order if made against the person on whom the process is issued), as may be fixed by the <sup>1</sup>[Central Government] as being necessary to enable him to attend the hearing of the case and to return to his ship or quarters, and such sum may be expended by the commanding officer for that purpose, and no process whatever under any law in any proceeding in this section mentioned shall be valid against a person subject to this Act if served after such person is under orders for service on a foreign station.

The production of a certificate of the receipt of the process purporting to be signed by such commanding officer as aforesaid shall be evidence that the process has been duly served unless the contrary is proved.

Where, by a decree or order sent to the <sup>1</sup>[Central Government] or officer in accordance with sub-section (2) of this section, the person against whom the decree or order is made is adjudged to pay as costs incurred in obtaining the decree or order any sum so left with the process as aforesaid, the <sup>1</sup>[Central Government] may cause a sum equal to the sum so left to be paid in liquidation of the sum so adjudged to be paid as costs, and the amount so paid by the <sup>1</sup>[Central Government] shall be a public debt from the person against whom the decree or order was made, and, without prejudice to any other method of recovery, may be recovered by reduction from his pay, in addition to those mentioned in sub-section (2) of this section.

(4) This section shall not apply to persons subject to this Act where such persons are officers.

(5) In this section the expression "pay" includes all sums payable to a man in respect of his services other than allowances in lieu of lodgings, rations, provisions, and clothing.

<sup>1</sup> Subs. by the A. O. 1937, for "G. G. in C."

<sup>2</sup> Subs. by the A. O. 1937, for "G. of I."

## PART VII.

## SAVING CLAUSE.

\* \* \* \* \*

Nothing to  
take away  
prerogative  
of the Crown  
or rights or  
powers of  
Admiralty.  
Act not to  
supersede  
authority of  
ordinary  
courts.

100. Nothing in this Act shall take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of His Majesty the King in right of His Crown, or in right of His Office of Admiralty or any right or power of the Admiralty.

101. Nothing in this Act contained shall be deemed or taken to supersede or affect the authority or power of any court or tribunal of ordinary civil or criminal jurisdiction, or any officer thereof, in His Majesty's dominions, in respect of any offence mentioned in this Act which may be punishable or cognisable by the common or statute law, or to prevent any person being proceeded against and punished in respect of any such offence otherwise than under this Act.

## PART VIII.

## PRINTING CLAUSE.

Printing and  
construction  
of Naval  
Discipline  
Act.

102. (1) Every enactment and word which is directed by any act amending this Act to be substituted for or added to any portion of this Act shall form part of this Act in the place assigned to it by the amending Act, and this Act and all Acts which refer thereto shall, after the commencement of the amending Act, be construed as if that enactment or word had been originally enacted in this Act in the place so assigned, and, where it is substituted for another enactment or word, had been so enacted in lieu of that enactment or word, and as if this Act had been enacted with the omission of any enactment or word which is directed by the amending Act to be repealed or omitted from this Act, and the expression "this Act" shall be construed accordingly.

(2) A copy of this Act with every such enactment and word inserted in the place so assigned, and with the omission of any portion of this Act directed by any such amending Act as aforesaid to be repealed or omitted from this Act, shall be prepared and certified by the Clerk of the Parliament and deposited with the rolls of Parliament, and His Majesty's printers shall print in accordance with the copy so certified all copies of this Act which are printed after the commencement of such amending Act.

(3) A reference in any enactment, Order in Council, or other document, to the Naval Discipline Act shall, unless the context otherwise requires, be construed as a reference to this Act as amended by any enactment for the time being in force.

## THE SCHEDULE.

*Enactments repealed.*

11 Geo. 4 & 1 Will. 4, c. 20, in part.	An Act to amend and consolidate the laws relating to the pay of the Royal navy.	} in part; namely:—
	Section eighty.	
10 & 11 Vict., c. 62, in part	An Act for the establishment of naval prisons, and for the prevention of desertion from Her Majesty's navy.	} in part; namely:—
	Section eleven.	
27 & 28 Vict., c. 119	The Naval Discipline Act, 1864.	
28 & 29 Vict., c. 116	The Naval Discipline Act Amendment Act, 1865.	

THE SECOND SCHEDULE [ENACTMENTS REPEALED] Rep.  
by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.

THE INDIAN FINANCE ACT, 1935.<sup>1</sup>

[22nd April, 1935]

An Act <sup>2</sup> \* \* \* to fix rates of income-tax and super-tax  
\* \* \*

WHEREAS it is expedient <sup>2</sup> \* \* \* to fix rates of income-tax and super-tax <sup>2</sup> \* \* \*; It is hereby enacted as follows:—

1. (1) This act may be called the Indian Finance Act, 1935.

Short title  
and extent.

(2) It extends to [all the Provinces of India], including <sup>4</sup> \* \* \* the Southal Parganas.

2 to 4. [Fixation of salt duty. Amendments of the First and Second Schedules to Act XXVII of 1934. Inland postage rates.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.

5. (1) Income-tax for the year beginning on the 1st day of April, 1935, shall be charged at the rates specified in Part I of the Second Schedule, increased in each case, except in the case of total incomes of less than two thousand rupees falling under heading A in the said Part, by one-sixth of the amount of the rate.

Income-tax  
and super-  
tax.

<sup>1</sup> This Act was made by the Governor-General under the provisions of s. 67B of the Govt. of India Act. No number was given.

For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, p. 41.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Certain words in the long title and preamble were rep. by the Repealing and Amending Act, 1937 (20 of 1937), s. 3 and Sch. II.

<sup>3</sup> Subs. by the A. O. 1918 for "the whole of British India".

<sup>4</sup> The words "British Baluchistan and" rep. by the A. O. 1918.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1935, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule, increased in each case by one-sixth of the amount of the rate.

(3) For the purposes of the Second Schedule "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

(4) For the purpose of assessing and collecting income-tax on total incomes of less than two thousand rupees the Indian Income-tax Act, 1922, shall be deemed to be subject to the adaptations set out in Part III of the Second Schedule.

(5) For the purpose of any assessment to be made for the year ending 31st March, 1936, the rate of income-tax applicable to such part of the total income of any person as is derived from salaries or from interest on securities paid in the year ending 31st March, 1935, shall be the previous year's rate, and for the purposes of refunds under sub-section (1) or sub-section (3) of section 48 in respect of dividends declared in the year ending 31st March, 1935, or of payments made in the said year of salaries or of interest on securities, the rate applicable to the total income of the person claiming refund shall be the previous year's rate.

*Explanation.*—In this sub-section the term "previous year's rate" with reference to any person means the rate of income-tax which would have been applicable to his total income if he had been assessed for the year ending 31st March, 1935, on a total income equal to that on which he is assessable for the year ending 31st March, 1936.

6. [Excise duty on silver]. Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.

SCHEDULE I.—Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. II.

## SCHEDULE II.

[See section 5.]

### PART I.

#### Rates of Income-tax.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—

	Rate.
(1) When the total income is Rs. 1,000 or upwards, but is less than Rs. 1,500	One and one-third pies in the rupee.

	Rate.
(2) When the total income is Rs. 1,500 or upwards, but is less than Rs. 2,000	Two and two-thirds pies in the rupee.
(3) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000	Six pies in the rupee.
(4) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000	Nine pies in the rupee.
(5) When the total income is Rs. 10,000 or upwards, but is less than Rs. 15,000	One anna in the rupee.
(6) When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000	One anna and four pies in the rupee.
(7) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000	One anna and seven pies in the rupee.
(8) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000	One anna and eleven pies in the rupee.
(9) When the total income is Rs. 40,000 or upwards, but is less than Rs. 1,00,000	Two annas and one pie in the rupee.
(10) When the total income is Rs. 1,00,000 or upwards	Two annas and two pies in the rupee.
B. In the case of every company and registered firm, whatever its total income	Two annas and two pies in the rupee.

## PART II.

## Rates of Super-tax.

	Rate.
In respect of the excess over thirty thousand rupees of total income—	
(1) in the case of every company—	
(a) in respect of the first twenty thousand rupees of such excess	Nil.
(b) for every rupee of the remainder of such excess	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family	
(i) in respect of the first forty-five thousand rupees of such excess	Nil.
(ii) for every rupee of the next twenty-five thousand rupees of such excess	One anna and three pies in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the first twenty thousand rupees of such excess	Nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	One anna and three pies in the rupee.



	Rate.
(c) in the case of every individual, Hindu undivided family, un-registered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the next fifty thousand rupees of such excess	One anna and nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	Two annas and three pies in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess	Two annas and nine pies in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess	Three annas and three pies in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess	Three annas and nine pies in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess	Four annas and three pies in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess	Four annas and nine pies in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess	Five annas and three pies in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess	Five annas and nine pies in the rupee.
(x) for every rupee of the remainder of such excess	Six annas and three pies in the rupee.

### PART III.

*Adaptations of the Indian Income-tax Act, 1922, to provide for the summary assessments of income tax on total incomes of less than Rs. 2,000*

1. The Income-tax Officer may, save where he has served a notice under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, make a summary assessment of the income of an assessee to the best of his judgment, and shall serve on the assessee a notice of demand in a form to be prescribed by the Central Board of Revenue; and such notice shall be deemed to be a notice of demand under section 29 of that Act. XI of 1922.

2. Any assessee in respect of whom such summary assessment has been made may, within thirty days of receipt of the notice of demand, make an application to the Income-tax Officer for the cancellation or revision of the assessment, and the Income-tax Officer shall, after examining any accounts and documents and hearing any evidence which the assessee may produce and such other evidence as the Income-tax Officer may require, determine, by order in writing, the amount of the tax, if any, payable by the assessee, and such determination shall be final:

Provided that, if any assessee making such application files therewith a return of his income under sub-section (2) of section 22 of the Indian Income-tax Act, 1922, the application shall be deemed to be a return under that sub-section and shall be dealt with accordingly.

3. A copy of an order under paragraph 2 shall be served on the assessee to whom it relates and shall be deemed to be a notice of demand under section 29 of the Indian Income-tax Act, 1922.

4. The above procedure shall apply also to the assessment and collection during the financial year 1935-36 of income of Rs. 1,000 and upward and less than Rs. 2,000 which have escaped assessment in the financial year 1934-35.

1936] *Finance*

# THE JUBBULPORE AND CHHATTISGARH DIVISIONS (DIVORCE PROCEEDINGS VALIDATION) ACT, 1935.

Act No. XIII of 1935<sup>1</sup>

[30th September, 1935]

## An Act to remove certain doubts and to validate certain proceedings of the High Court of Judicature at Allahabad.

WHEREAS it is expedient to remove certain doubts as to the jurisdiction  
of the Court of the Judicial Commissioner of the Central Provinces under the  
IV of 1939. Indian Divorce Act after the 31st August, 1923;

AND WHEREAS it is also expedient to validate certain proceedings taken  
by the High Court of Judicature at Allahabad under the said Act during the  
period from the 31st August, 1923, up to the commencement of this Act;

It is hereby enacted as follows:—

1. This Act may be called the Jubbulpore and Chhattisgarh Divisions Short title.  
(Divorce Proceedings Validation) Act, 1935.

2. It is hereby declared, for the removal of doubts, that from the 31st Declaration  
August, 1923, the Court of the Judicial Commissioner of the Central Pro- as to  
vinces alone has had and alone shall have the jurisdiction of a High Court jurisdiction  
under the Indian Divorce Act within the Jubbulpore and Chhattisgarh of Court of  
IV of 1939. Divisions of the Central Provinces. Judicial  
Commissioner of the  
Central  
Provinces.

3. All proceedings taken, and all jurisdiction exercised, by the High Validation of  
Court of Judicature at Allahabad, during the period from the 31st August, proceedings  
IV of 1939. 1923, up to the commencement of this Act, as a High Court under the of the High  
Indian Divorce Act within the Jubbulpore and Chhattisgarh Divisions of the Court of  
Central Provinces shall be deemed to be as good and valid in law as if such Judicature  
proceedings had been taken and jurisdiction exercised by the Court of the at Allah-  
Judicial Commissioner of the Central Provinces. bad.

## THE INDIAN FINANCE ACT, 1936<sup>2</sup>.

[31st March, 1936.]

### An Act \* \* \* to fix rates of income-tax and super-tax.

WHEREAS it is expedient \* \* \* to fix rates of income tax and  
super tax; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Finance Act, 1936.

Short title  
and extent

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, p. 100.

<sup>2</sup> This Act was made by the Governor-General under the provisions of s. 67B of the Govt. of India Act. No number was given.

For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, pp. 16 and 17.  
This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>3</sup> The words "to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, and" rep. by the Repealing and Amending Act, 1940 (32 of 1940) s. 2 and Sch. I.

(2) It extends to [all the Provinces of India], including <sup>2\*</sup> \* \* the Sonthal Parganas.

2. [Firation of salt duty.] { Rep. by the Repealing and Amending  
3 [Inland Postage rates.] { Act, 1940 (32 of 1940), s. 2 and Sch. I.

Income-tax  
and super-  
tax.

4. (1) Income-tax for the year beginning on the 1st day of April, 1936, shall be charged at the rates specified in Part I of the Second Schedule, increased in each case by one-twelfth of the amount of the rate.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1936, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of the Second Schedule, increased in each case by one-twelfth of the amount of the rate. XI of 1922.

(3) For the purposes of the Second Schedule 'total income' means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922. XI of 1922.

(4) For the purpose of any assessment to be made for the year ending 31st March, 1937, the rate of income-tax applicable to such part of the total income of any person as is derived from salaries or from interest on securities paid in the year ending 31st March, 1936, shall be the previous year's rate, and for the purposes of refunds under sub-section (1) or sub-section (3) of section 48 in respect of dividends declared in the year ending 31st March, 1936, or of payments made in the said year of salaries or of interest on securities, the rate applicable to the total income of the person claiming refund shall be the previous year's rate.

*Explanation.*—In this sub-section the term 'previous year's rate' with reference to any person means the rate of income-tax which would have been applicable to his total income if he had been assessed for the year ending 31st March, 1936, on a total income equal to that on which he is assessable for the year ending 31st March, 1937.

SCHEDULE I.—Rep. by the Repealing and Amending Act, 1940  
(32 of 1940), s. 2 and Sch. I.

## SCHEDULE II.

[See section 4.]

### PART I.

#### Rates of Income-tax.

	Rate.
A In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(1) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000	Six pies in the rupee.
(2) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000	Nine pies in the rupee.

<sup>1</sup> Subs. by the A. O. 1948, for "the whole of British India".

<sup>2</sup> The words "British Baluchistan and" rep. by the A. O. 1948.

	Rate.
(3) When the total income is Rs. 10,000 or upwards, but is less than Rs. 15,000 ... ..	One anna in the rupee.
(4) When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000 ... ..	One anna and four pies in the rupee.
(5) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000 ... ..	One anna and seven pies in the rupee.
(6) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000 ... ..	One anna and eleven pies in the rupee.
(7) When the total income is Rs. 40,000 or upwards, but is less than Rs. 1,00,000 ... ..	Two annas and one pie in the rupee.
(8) When the total income is Rs. 1,00,000 or upwards ... ..	Two annas and two pies in the rupee.
B. In the case of every company and registered firm, whatever its total income ... ..	Two annas and two pies in the rupee.

## PART II.

## Rates of Super-tax

	Rate.
In respect of the excess over thirty thousand rupees of total income —	
(a) in the case of every company —	
(i) in respect of the first twenty thousand rupees of such excess	Nil.
(ii) for every rupee of the remainder of such excess ... ..	One anna in the rupee.
(b) in the case of every Hindu undivided family	
(i) in respect of the first forty five thousand rupees of such excess ... ..	Nil.
(ii) for every rupee of the next twenty five thousand rupees of such excess ... ..	One anna and three pies in the rupee.
(c) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company —	
(i) for every rupee of the first twenty thousand rupees of such excess ... ..	Nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess ... ..	One anna and three pies in the rupee.
(d) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company —	
(i) for every rupee of the next fifty thousand rupees of such excess ... ..	One anna and nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess ... ..	Two annas and three pies in the rupee.

(m) for every rupee of the next fifty thousand rupees of such excess	... ..	Two annas and nine pies in the rupee.
(n) for every rupee of the next fifty thousand rupees of such excess	... ..	Three annas and three pies in the rupee.
(o) for every rupee of the next fifty thousand rupees of such excess	... ..	Three annas and nine pies in the rupee.
(p) for every rupee of the next fifty thousand rupees of such excess	... ..	Four annas and three pies in the rupee.
(q) for every rupee of the next fifty thousand rupees of such excess	... ..	Four annas and nine pies in the rupee.
(r) for every rupee of the next fifty thousand rupees of such excess	... ..	Five annas and three pies in the rupee.
(s) for every rupee of the next fifty thousand rupees of such excess	... ..	Five annas and nine pies in the rupee.
(t) for every rupee of the remainder of such excess	..	Six annas and three pies in the rupee.

## THE PARSI MARRIAGE AND DIVORCE ACT, 1936.

### CONTENTS.

#### I.—PRELIMINARY.

##### SECTIONS.

1. Short title, extent and commencement.
2. Definitions.

#### II.—MARRIAGES BETWEEN PARSI.

3. Requisites to validity of Parsi marriages.
4. Remarriage when unlawful.
5. Punishment of bigamy.
6. Certificate and registry of marriage.
7. Appointment of Registrar.
8. Marriage register to be open for public inspection.
9. Copy of certificate to be sent to Registrar-General of Births, Deaths and Marriages.
10. Registration of divorces.
11. Penalty for solemnizing marriage contrary to section 4.
12. Penalty for priest's neglect of requirements of section 6.
13. Penalty for omitting to subscribe and attest certificate.
14. Penalty for making, etc., false certificate.
15. Penalty for failing to register certificate.

## SECTIONS.

16. Penalty for secreting, destroying or altering register.
17. Formal irregularity not to invalidate marriage.

## III.—PARSI MATRIMONIAL COURTS.

18. Constitution of Special Courts under the Act.
19. Parsi Chief Matrimonial Courts.
20. Parsi District Matrimonial Courts.
21. Power to alter territorial jurisdiction of District Courts.
22. Certain districts to be within jurisdiction of the Chief Matrimonial Court.
23. Court seal.
24. Appointment of delegates.
25. Power to appoint new delegates.
26. Delegates to be deemed public servants.
27. Selection of delegates under section 19 and 20 to be from those appointed under section 24.
28. Practitioners in Matrimonial Courts.
29. Court in which suits to be brought.

## IV.—MATRIMONIAL SUITS.

30. Suits for nullity.
31. Suits for dissolution.
32. Grounds for divorce.
33. Joining of co-defendant.
34. Suits for judicial separation.
35. Decrees in certain suits.
36. Suit for restitution of conjugal rights.
37. Counter-claim by defendant for any relief.
38. No suit to be brought to enforce marriage or contract arising out of marriage when husband is under sixteen years or wife under fourteen years.
39. Alimony *pendente lite*.
40. Permanent alimony.
41. Payment of alimony to wife or to her trustee.
42. Disposal of joint property.
43. Suits may be heard with closed doors.
44. Validity of trial.
45. Provisions of Civil Procedure Code to apply to suits under the Act.
46. Determination of questions of law and procedure and of fact.
47. Appeal to High Court.
48. Liberty to parties to marry again.

## (I.—Preliminary.)

## V. CHILDREN OF THE PARTIES.

- 49. Custody of children.
- 50. Settlement of wife's property for benefit of children.

## VI.—MISCELLANEOUS.

- 51. Superintendence of High Court.
- 52. Applicability of provisions of the Act.
- 53. [*Repealed.*]

SCHEDULE I. Table of prohibited degrees of consanguinity and affinity.  
 SCHEDULE II.—Certificate of Marriage.

Act No. III of 1936.<sup>1</sup>

[23rd April, 1936]

## An Act to amend the law relating to marriage and divorce among Parsis.

WHEREAS it is expedient to amend the law relating to marriage and divorce among Parsis ; It is hereby enacted as follows :—

## I.—PRELIMINARY.

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Parsi Marriage and Divorce Act, 1936.  
 (2) It extends to <sup>2</sup>[all the Provinces of India] and, in respect of Parsi subjects of His Majesty, to the whole of India ;

Provided that the <sup>3</sup>[Central Government] may, in respect of territories in India beyond the limits of <sup>4</sup>[the Provinces], by notification in the <sup>5</sup>[Official Gazette], direct that the provisions of this Act relating to the constitution and powers of Parsi Matrimonial Courts and to appeals from the decisions and orders of such Courts shall apply with such modifications as may be specified in the notification.

(3) It shall come into force on such <sup>6</sup>date as the <sup>3</sup>[Central Government] may, by notification in the <sup>5</sup>[Official Gazette], appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1934, Pt. V, p. 221 ; and for Report of Select Committee, see *ibid.*, 1935, Pt. V, pp. 108-109.

This Act has been extended to Berar by the Berar Laws Act, 1941 (1 of 1941).

<sup>2</sup> Subs. by the A. O. 1948, for "the whole of British India".

<sup>3</sup> Subs. by the A. O. 1937, for "G. G. in C".

<sup>4</sup> Subs. by the A. O. 1948, for "British India".

<sup>5</sup> Subs. by the A. O. 1937, for "Gazette of India".

<sup>6</sup> 22nd June, 1936 : see Gazette of India, 1936, Pt. 1, p. 621.

## (I.—Preliminary. II. Marriage between Parsis.)

- (1) "Chief Justice" includes senior Judge ;
- (2) "Court" means a Court constituted under this Act ;
- (3) to "desert", together with its grammatical variations and cognate expressions, means to desert the other party to a marriage without reasonable cause and without the consent or against the will of such party ;
- (4) "grievous hurt" means—
  - (a) emasculation ;
  - (b) permanent privation of the sight of either eye ;
  - (c) permanent privation of the hearing of either ear ;
  - (d) privation of any member or joint
  - (e) destruction or permanent impairing of the powers of any member or joint ;
  - (f) permanent disfigurement of the head or face ; or
  - (g) any hurt which endangers life ;
- (5) "husband" means a Parsi husband ;
- (6) "marriage" means a marriage between Parsis whether contracted before or after the commencement of this Act ;
- (7) a "Parsi" means a Parsi Zoroastrian ;
- (8) "priest" means a Parsi priest and includes Dastur and Mobed ; and
- (9) "wife" means a Parsi wife.

## II.—MARRIAGES BETWEEN PARSI.

## 3 No marriage shall be valid if—

- (a) the contracting parties are related to each other in any of the degrees of consanguinity or affinity set forth in Schedule I ; or
- (b) such marriage is not solemnized according to the Parsi form of ceremony called "Ashirvad" by a priest in the presence of two Parsi witnesses other than such priest ; or
- (c) in the case of any Parsi (whether such Parsi has changed his or her religion or domicile or not) who has not completed the age of twenty-one years, the consent of his or her father or guardian has not been previously given to such marriage.

4. (1) No Parsi (whether such Parsi has changed his or her religion or domicile or not) shall contract any marriage under this Act or any other law in the lifetime of his or her wife or husband, whether a Parsi or not except after his or her lawful divorce from such wife or husband or after his or her marriage with such wife or husband has lawfully been declared null and void or dissolved, and, if the marriage was contracted with such wife or husband under the Parsi Marriage and Divorce Act, 1865<sup>1</sup>, or under this Act (except after a divorce, declaration or dissolution as aforesaid under either of the said Acts.

Requisites to validity of Parsi marriages.

Remarriage when unlawful.

<sup>1</sup> Rep. by this Act.



## (II.—Marriages between Parsis.)

(2) Every marriage contracted contrary to the provisions of sub-section (1) shall be void.

**Punishment  
of bigamy.**

5. Every Parsi who during the lifetime of his or her wife or husband, whether a Parsi or not, contracts a marriage without having been lawfully divorced from such wife or husband, or without his or her marriage with such wife or husband having legally been declared null and void or dissolved, shall be subject to the penalties provided in sections 494 and 495 of the Indian Penal Code for the offence of marrying again during the lifetime of a husband or wife.

XLV of 1860

**Certificate  
and registry  
of marriage.**

6. Every marriage contracted under this Act shall, immediately on the solemnization thereof, be certified by the officiating priest in the form contained in Schedule II. The certificate shall be signed by the said priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty-one years, and two witnesses present at the marriage; and the said priest shall thereupon send such certificate together with a fee of two rupees to be paid by the husband to the Registrar of the place at which such marriage is solemnized. The Registrar on receipt of the certificate and fee shall enter the certificate in a register to be kept by him for that purpose and shall be entitled to retain the fee.

**Appoint-  
ment of  
Registrar.**

7. For the purposes of this Act a Registrar shall be appointed. Within the local limits of the ordinary original civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and without such limits, by the <sup>1</sup>[Provincial Government]. Every Registrar so appointed may be removed by the Chief Justice or <sup>1</sup>[Provincial Government] appointing him.

**Marriage  
register to  
be open for  
public  
inspection.**

8. The register of marriages mentioned in section 6 shall, at all reasonable times, be open for inspection, and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant of two rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

**Copy of  
certificate to  
be sent to  
Registrar-  
General of  
Births,  
Deaths and  
Marriages.**

9. Every Registrar, except the Registrar appointed by the Chief Justice of the High Court of Judicature at Bombay, shall, at such intervals as the <sup>1</sup>[Provincial Government] by which he was appointed from time to time directs, send to the Registrar-General of Births, Deaths and Marriages for the territories administered by such <sup>1</sup>[Provincial Government] a true copy certified by him in such form as such <sup>2</sup>[Provincial Government] from time to time prescribes, of all certificates entered by him in the said register of marriages since the last of such intervals.

**Registration  
of divorces.**

10. When a Court passes a decree for divorce, nullity or dissolution, the Court shall send a copy of the decree for registration to the Registrar of Marriages within its jurisdiction appointed under section 7; the Registrar shall enter the same in a register to be kept by him for the purpose, and the provisions of Part II applicable to the Registrars and registers of marriages shall be applicable, so far as may be, to the Registrars and registers of divorces and decrees of nullity and dissolution.

<sup>1</sup> Subs. by the A. O. 1937, for "I. G."

## (II.—Marriages between Parsis. III.—Parsi Matrimonial Courts.)

11. Any priest knowingly and wilfully solemnizing any marriage contrary to and in violation of section 4 shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Penalty for solemnizing marriage contrary to section 4.

12. Any priest neglecting to comply with any of the requisitions affecting him contained in section 6 shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Penalty for priest's neglect of requirements of section 6.

13. Every other person required by section 6 to subscribe or attest the said certificate who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred rupees.

Penalty for omitting to subscribe and attest certificate.

14. Every person making or signing or attesting any such certificate containing a statement which is false, and which he either knows or believes to be false, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both; and if the act amounts to forgery as defined in the Indian Penal Code, then such person shall also be liable, on conviction thereof, to the penalties provided in section 466 of the said Code.

Penalty for making, etc., false certificate.

XLV of 1860.

15. Any Registrar failing to enter the said certificate pursuant to section 6 shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Penalty for failing to register certificate.

XLV of 1860.

16. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to two years, or if he be a Registrar, for a term which may extend to five years and shall also be liable to fine which may extend to five hundred rupees.

Penalty for secreting, destroying or altering register.

17. No marriage contracted under this Act shall be deemed to be valid solely by reason of the fact that it was not certified under section 6, or that the certificate was not sent to the Registrar, or that the certificate was defective, irregular or incorrect.

Formal irregularity not to invalidate marriage.

## III.—PARSI MATRIMONIAL COURTS.

18. For the purpose of hearing suits under this Act, a special Court shall be constituted in each of the Presidency-towns of Calcutta, Madras and Bombay, and in such other places in the territories of the several [Provincial Governments] as such Governments respectively shall think fit.

Constitution of Special Courts under the Act.

19. The Court so constituted in each of the Presidency-towns shall be entitled the Parsi Chief Matrimonial Court of Calcutta, Madras or Bombay as the case may be. The local limits of the jurisdiction of a Parsi Chief Matrimonial Court shall be coterminous with the local limits of the ordinary

Parsi Chief Matrimonial Courts.

<sup>1</sup> Subs. by the A. O. 1997, for "Local Governments".

## (III.--Parsi Matrimonial Courts.)

original civil jurisdiction of the High Court. The Chief Justice of the High Court, or such other Judge of the same Court as the Chief Justice shall from time to time appoint, shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by seven delegates.

Parsi District  
Matrimonial  
Courts.

20. Every Court so constituted at a place other than a Presidency town shall be entitled the Parsi District Matrimonial Court of such place. Subject to the provisions contained in section 21, the local limits of the jurisdiction of such Court shall be continuous with the limits of the district in which it is held. The Judge of the principal Court of original civil jurisdiction at such place shall be the Judge of such Matrimonial Court, and in the trial of cases under this Act he shall be aided by seven delegates.

Power to  
alter terri-  
torial juris-  
diction of  
District  
Courts.

21. The <sup>1</sup>[Provincial Government] may from time to time alter the local limits of the jurisdiction of any Parsi District Matrimonial Court, and may include within such limits any number of districts under its government.

Certain dis-  
tricts to be  
within  
jurisdiction  
of the Chief  
Matrimonial  
Court.

22. Any district which the <sup>2</sup>[Provincial Government], on account of the **fewness of its Parsi inhabitants**, shall deem it inexpedient to include within the jurisdiction of any District Matrimonial Court, shall be included within the jurisdiction of the Parsi Chief Matrimonial Court, for the territories under such <sup>1</sup>[Provincial Government] where there is such a Court.

Court seals.

23. A seal shall be made for every Court constituted under this Act, and all decrees and orders and copies of decrees and orders of such Court shall be sealed with such seal, which shall be kept in the custody of the presiding Judge.

Appointment  
of delegates.

24. (1) The <sup>2</sup>[Provincial Governments] shall, in the Presidency-towns and districts subject to their respective governments, respectively appoint persons to be delegates to aid in the adjudication of cases arising under this Act, after giving the local Parsis an opportunity of expressing their opinion in such manner as the respective Governments may think fit.

(2) The persons so appointed shall be Parsis, their names shall be published in the <sup>3</sup>[Official Gazette] and their number shall, within the local limits of the ordinary original civil jurisdiction of a High Court, be not more than thirty, and in districts beyond such limits, not more than twenty.

Power to  
appoint new  
delegates.

25. The appointment of a delegate shall be for ten years; but he shall be eligible for reappointment for the like term or terms. Whenever a delegate shall die, or have completed his term of office, or be desirous of relinquishing his office, or refuse or become incapable or unfit to act or cease to be a Parsi, or be convicted of an offence under the Indian Penal Code or **XLV of 18** other law for the time being in force, or be adjudged insolvent, then and so often the <sup>1</sup>[Provincial Government] may appoint any person being a Parsi to be a delegate in his stead; and the name of the person so appointed shall be published in the <sup>3</sup>[Official Gazette].

Delegates to  
be deemed  
public  
servants

26. All delegates appointed under this Act shall be considered to be **XLV of 18** public servants within the meaning of the Indian Penal Code.

<sup>1</sup> Subs. by the A. O. 1937, for "L. G."

<sup>2</sup> Subs. by the A. O. 1937 for "Local Governments".

<sup>3</sup> Subs. by the A. O. 1937, for "Local Official Gazette."

## (III.—Parsi Matrimonial Courts. IV.—Matrimonial Suits.)

27. The delegates selected under sections 19 and 20 to aid in the adjudication of suits under this Act, shall be taken under the orders of the presiding Judge of the Court in due rotation from the delegates appointed by the [Provincial Government] under section 24:

Selection of delegates under sections 19 and 20 to be from those appointed under section 24.

Provided that each party to the suit may, without cause assigned, challenge any three of the delegates attending the Court before such delegates are selected and no delegate so challenged shall be selected.

28. All legal practitioners entitled to practise in a High Court shall be entitled to practise in any Court constituted under this Act, and all legal practitioners entitled to practise in a District Court shall be entitled to practise in any Parsi District Matrimonial Court constituted under this Act.

Practitioners in Matrimonial Courts.

29. (1) All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit.

Court in which suits to be brought.

(2) When the defendant shall at such time have left [the Provinces] such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together.

(3) In any case, whether the defendant resides in [the Provinces] or not, such suit may be brought in the Court at the place where the plaintiff resides or at the place where the plaintiff and the defendant last resided together, if such Court, after recording its reasons in writing, grants leave so to do.

## IV.—MATRIMONIAL SUITS.

30. In any case in which consummation of the marriage is from natural causes impossible, such marriage may, at the instance of either party thereto, be declared to be null and void.

Suits for nullity.

31. If a husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would have naturally heard of him or her, had he or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved.

Suits for dissolution.

32. Any married person may sue for divorce on any one or more of the following grounds, namely:—

Grounds for divorce.

(a) that the marriage has not been consummated within one year after its solemnization owing to the wilful refusal of the defendant to consummate it;

(b) that the defendant at the time of the marriage was of unsound mind and, has been habitually so up to the date of the suit;

Provided that divorce shall not be granted on this ground, unless the plaintiff (1) was ignorant of the fact at the time of the marriage, and (2) has filed the suit within three years from the date of the marriage;

<sup>1</sup> Subs. by the A. O. 1937, for "L. G."

<sup>2</sup> Subs. by the A. O. 1948 for "British India".

## (IV.—Matrimonial Suits.)

(c) that the defendant was at the time of marriage pregnant by some person other than the plaintiff :

Provided that divorce shall not be granted on this ground, unless (1) the plaintiff was at the time of the marriage ignorant of the fact alleged, (2) the suit has been filed within two years of the date of marriage, and (3) marital intercourse has not taken place after the plaintiff came to know of the fact ;

(d) that the defendant has since the marriage committed adultery or fornication or bigamy or rape or an unnatural offence :

Provided that divorce shall not be granted on this ground if the suit has been filed more than two years after the plaintiff came to know of the fact,

(e) that the defendant has since the marriage voluntarily caused grievous hurt to the plaintiff or has infected the plaintiff with venereal disease or, where the defendant is the husband, has compelled the wife to submit herself to prostitution :

Provided that divorce shall not be granted on this ground if the suit has been filed more than two years (i) after the infliction of the grievous hurt, or (ii) after the plaintiff came to know of the infection, or (iii) after the last act of compulsory prostitution ;

(f) that the defendant is undergoing a sentence of imprisonment for seven years or more for an offence as defined in the Indian Penal Code :

XLV of 186

Provided that divorce shall not be granted on this ground, unless the defendant has prior to the filing of the suit undergone at least one year's imprisonment out of the said period ; .

(g) that the defendant has deserted the plaintiff for at least three years,

(h) that a decree or order for judicial separation has been passed against the defendant, or an order has been passed against the defendant by a Magistrate awarding separate maintenance to the plaintiff, and the parties have not had marital intercourse for three years or more since such decree or order ;

(i) that the defendant has failed to comply with a decree for restitution of conjugal rights for a year or more ; and

(j) that the defendant has ceased to be a Parsi :

Provided that divorce shall not be granted on this ground if the suit has been filed more than two years after the plaintiff came to know of the fact.

Joining of  
co-defendants

33. In every such suit for divorce on the ground of adultery, the plaintiff shall, unless the Court shall otherwise order, make the person with whom the adultery is alleged to have been committed a co-defendant, and in any such suit by the husband the Court may order the adulterer to pay the whole or any part of the costs of the proceedings.

Suits for  
judicial  
separation,

34. Any married person may sue for judicial separation on any of the grounds for which such person could have filed a suit for divorce, or on the ground that the defendant has been guilty of such cruelty to him or her or their children, or has used such personal violence, or has behaved in such a way as to render it in the judgment of the Court improper to compel him or her to live with the defendant.

Decrees in  
certain suits.

35. In any suit under section 30, 31, 32 or 34, whether defended or not, if the Court be satisfied that any of the grounds set forth in those sections for

(IV.—*Matrimonial Suits.*)

granting relief exist, that none of the grounds therein set forth for withholding relief exist and that—

- (a) the act or omission set forth in the plaint has not been condoned;
  - (b) the husband and wife are not colluding together ;
  - (c) the plaintiff has not connived at or been accessory to the said act or omission ;
  - (d) (save where a definite period of limitation is provided by this Act) there has been no unnecessary or improper delay in instituting the suit ; and
  - (e) there is no other legal ground why relief should not be granted ;
- then and in such case, but not otherwise, the Court shall decree such relief accordingly.

36. Where a husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted or without lawful cause ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased may sue for the restitution of his or her conjugal rights and the Court, if satisfied of the truth of the allegations contained in the plaint, and that there is no just ground why relief should not be granted, may proceed to decree such restitution of conjugal rights accordingly.

**Suit for  
restitution  
of conjugal  
rights.**

**Counter-  
claim by  
defendant  
for any relief.**

37. In any suit under this Act, the defendant may make a counter-claim for any relief he or she may be entitled to under this Act.

38. Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage or any contract connected with or arising out of any marriage, if, at the date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

**No suit to  
be brought  
to enforce  
marriage or  
contract  
arising out  
of marriage  
when  
husband is  
under six-  
teen years  
or wife  
under  
fourteen  
years.**

39. In any suit under this Act if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court, on the application of the wife, may order the husband to pay her monthly or weekly during the suit such sum not exceeding one-fifth of her husband's net income as the Court, considering the circumstances of the parties, shall think reasonable.

**Alimony  
pendente lite.**

40. (1) The Court may, if it shall think fit at the time of passing any decree under this Act or subsequently thereto on application made to it for the purpose, order that the husband shall, <sup>1</sup>[while the wife remains chaste and unmarried]

**Permanent  
alimony.**

<sup>1</sup> Ins. by the Parsi Marriage and Divorce (Amendment) Act, 1940 (14 of 1940), s. 2.

## (IV.—Matrimonial Suits.)

(a) to the satisfaction of the Court secure to the wife <sup>1</sup>\* \* \* such gross sum or such monthly or periodical payment of money for a term not exceeding her life as, having regard to her own property, if any, her husband's ability and the conduct of the parties, shall be deemed just and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instruments shall have been duly executed, or

(b) make such monthly payments to the wife for her maintenance and support as the Court may think reasonable

In case any such order shall not be obeyed by her husband it may be enforced in the manner provided for the execution of decrees and orders under the Code of Civil Procedure 1908, and further the husband may be sued by any person <sup>V of 1908</sup> supplying the wife with necessaries during the time of such disobedience for the price of such necessaries

(2) The Court if satisfied that there is a change in the circumstances of either party at any time, may at the instance of either party vary, modify or rescind such order in such manner as the Court may deem just

<sup>2</sup>(3) Where an order for alimony or maintenance in favour of a wife has been made either under the provisions of the Parsi Marriage and Divorce Act, 1865, or under the provisions of this Act the Court, if satisfied that the wife has remained or has not remained chaste shall vary or rescind the order |

Payment of  
alimony to  
wife or to  
her trustee.

41 In all cases in which the Court shall make any decree or order for alimony it may direct the same to be paid either by the wife herself or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee if for any reason it shall appear to the Court expedient so to do

Disposal of  
joint  
property.

42 In any suit under this Act the Court may make such provisions in the final decree as it may deem just and proper with respect to property presented at or about the time of marriage which may belong jointly to both the husband and wife

Suits may  
be heard  
with closed  
doors.  
Validity of  
trial.

43 In every suit preferred under this Act, the case shall be tried with closed doors should such be the wish of either of the parties

44 Notwithstanding anything contained in section 19 or section 20 where in the case of a trial in a Parsi Matrimonial Court not less than five delegates have attended throughout the proceedings, the trial shall not be invalid by reason of the absence during any part thereof of the other delegates

Provisions  
of Civil  
Procedure  
Code to  
apply to  
suits under  
the Act.

45 The provisions of the Code of Civil Procedure, 1908, shall, so far as <sup>V of 1908,</sup> the same may be applicable, apply to proceedings in suits instituted under this Act including proceedings in execution and orders subsequent to decree

<sup>1</sup> The words "while she remains chaste and unmarried" rep. by the Parsi Marriage and Divorce (Amendment) Act 1940 (14 of 1940).

<sup>2</sup> Ins., *ibid.*

(IV.—Matrimonial Suits. V.—Children of the Parties. VI.—  
Miscellaneous.)

46. In suits under this Act all questions of law and procedure shall be determined by the presiding Judge; but the decision on the facts shall be the decision of the majority of the delegates before whom the case is tried:

Determina-  
tion of  
question of  
law and  
procedure  
and of act.

Provided that, where such delegates are equally divided in opinion, the decision on the facts shall be the decision of the presiding Judge.

47. An appeal shall lie to the High Court from—

Appeal to  
High Court.

(a) the decision of any Court established under this Act, whether a Chief Matrimonial Court or District Matrimonial Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground; and

(b) the granting of leave by any such Court under sub-section (3) of section 29 :

Provided that such appeal shall be instituted within three calendar months after the decision appealed from shall have been pronounced.

48. When the time hereby limited for appealing against any decree granting a divorce or annulling or dissolving a marriage shall have expired, and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal a divorce has been granted or a marriage has been declared to be annulled or dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been terminated by death.

Liberty to  
parties to  
marry again.

## V.—CHILDREN OF THE PARTIES.

49. In any suit under this Act, the Court may from time to time pass such interim orders and make such provisions in the final decree as it may deem just and proper with respect to the custody, maintenance and education of the children under the age of sixteen years, the marriage of whose parents is the subject of such suit, and may, after the final decree upon application, by petition for this purpose, make, revoke, suspend or vary from time to time all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such final decree or by interim orders in case the suit for obtaining such decree were still pending.

Custody of  
children.

50. In any case in which the Court shall pronounce a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court that the wife is entitled to any property either in possession or reversion, the Court may order such settlement as it shall think reasonable to be made of any part of such property, not exceeding one-half thereof, for the benefit of the children of the marriage or any of them.

Settlement  
of wife's  
property for  
benefit of  
children.

## VI.—MISCELLANEOUS.

51. The High Court shall have superintendence over all Courts constituted under this Act subject to its appellate jurisdiction in the same manner as

Superinten-  
dence of  
High Court



## (VI.—Miscellaneous. Schedule I.)

it has over other Courts under section 107 of the Government of India Act,<sup>1</sup> and all the provisions of that section shall apply to such Courts.

**Applicability  
of provisions  
of the Act.**

52. (1) The provisions of this Act shall apply to all suits to which the same are applicable whether the circumstances relied on occurred before or after the passing of this Act, and whether any decree or order referred to was passed, under this Act or under the law in force before the passing of this Act, and where any proceedings are pending in any Court at the time of the commencement of this Act, the Court shall allow such amendment of the pleadings as may be necessary as the result of the coming into operation of this Act.

(2) A Parsi who has contracted a marriage under the Parsi Marriage and Divorce Act, 1865,<sup>2</sup> or under this Act, even though such Parsi may change his or her religion or domicile, so long as his or her wife or husband is alive and so long as such Parsi has not been lawfully divorced from such wife or husband or such marriage has not lawfully been declared null and void or dissolved under the decree of a competent Court under either of the said Acts, shall remain bound by the provisions of this Act.

XV of 1865,

53. [Repeal.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Sch. 11.

---

SCHEDULE I.

(See section 3.)

*Table of prohibited degrees of consanguinity and affinity.*

A man shall not marry his—

1. Paternal grand-father's mother.
2. Paternal grand-mother's mother.
3. Maternal grand-father's mother.
4. Maternal grand-mother's mother.
5. Paternal grand-mother.
6. Paternal grand-father's wife.
7. Maternal grand-mother.
8. Maternal grand-father's wife.
9. Mother or step-mother.

---

<sup>1</sup> See now s. 224 of the Govt. of India Act, 1935.

<sup>2</sup> Rep. by this Act.

*(Schedule I.)*

10. Father's sister or step-sister.

11. Mother's sister or step-sister.

12. Sister or step-sister.

13. Brother's daughter or step-brother's daughter, or any direct lineal descendant of a brother or step-brother.

14. Sister's daughter, or step-sister's daughter, or any direct lineal descendant of a sister or step-sister.

15. Daughter or step-daughter, or any direct lineal descendant of either.

16. Son's daughter or step-son's daughter, or any direct lineal descendant of a son or step-son.

17. Wife of son or step-son, or of any direct lineal descendant of a son or step-son.

18. Wife of daughter's son or of step-daughter's son, or of any direct lineal descendant of a daughter or step-daughter.

19. Mother of daughter's husband.

20. Mother of son's wife.

21. Mother of wife's paternal grand-father.

22. Mother of wife's paternal grand-mother.

23. Mother of wife's maternal grand-father.

24. Mother of wife's maternal grand-mother.

25. Wife's paternal grand-mother.

26. Wife's maternal grand-mother.

27. Wife's mother or step-mother.

28. Wife's father's sister.

29. Wife's mother's sister.

30. Father's brother's wife.

31. Mother's brother's wife.

32. Brother's son's wife.

33. Sister's son's wife.

A woman shall not marry her—

1. Paternal grand-father's father.

2. Paternal grand-mother's father.

*(Schedule I.)*

3. Maternal grand-father's father.
4. Maternal grand-mother's father.
5. Paternal grand-father.
6. Paternal grand-mother's husband.
7. Maternal grand-father.
8. Maternal grand-mother's husband.
9. Father or step-father.
10. Father's brother or step-brother.
11. Mother's brother or step-brother.
12. Brother or step-brother.
13. Brother's son or step-brother's son, or any direct lineal descendant of a brother or step-brother.
14. Sister's son or step-sister's son, or any direct lineal descendant of a sister or step-sister.
15. Son or step-son, or any direct lineal descendant of either.
16. Daughter's son or step-daughter's son, or any direct lineal descendant of a daughter or step-daughter.
17. Husband of daughter or of step-daughter, or of any direct lineal descendant of a daughter or step-daughter.
18. Husband of son's daughter or of step-son's daughter, or of any direct lineal descendant of a son or step son.
19. Father of daughter's husband.
20. Father of son's wife.
21. Father of husband's paternal grand-father.
22. Father of husband's paternal grand-mother.
23. Father of husband's maternal grand-father.
24. Father of husband's maternal grand-mother.
25. Husband's paternal grand-father.
26. Husband's maternal grand-father.
27. Husband's father or step-father.
28. Brother of husband's father.
29. Brother of husband's mother.
30. Husband's brother's son, or his direct lineal descendant.
31. Husband's sister's son, or his direct lineal descendant.
32. Brother's daughter's husband.
33. Sister's daughter's husband.

NOTE.—In the above table the words "brother" and "sister" denote brother and sister of the whole as well as half blood. Relationship by step means relationship by marriages.

(Schedule II.)

## SCHEDULE II.

(See section 6.)

## Certificate of Marriage.

	Date and place of marriage
	Names of the husband and wife.
	Condition at the time of marriage.
	Rank or profession.
	Age.
	Residence.
	Names of the fathers or guardians.
	Rank or profession.
	Signature of the officiating priest.
	Signatures of the contracting parties.
	Signatures of the fathers or guardians of the contracting parties under 21 years of age
	Signatures of witnesses.

## THE PAYMENT OF WAGES ACT, 1936

### CONTENTS

#### SECTIONS.

1. Short title, extent, commencement and application.
2. Definitions.
3. Responsibility for payment of wages.
4. Fixation of wage-periods.
5. Time of payment of wages.
6. Wages to be paid in current coin or currency notes.
7. Deductions which may be made from wages.
8. Fines.
9. Deductions for absence from duty.
10. Deductions for damage or loss.
11. Deductions for services rendered.
12. Deductions for recovery of advances.
13. Deductions for payments to co-operative societies and insurance schemes.
14. Inspectors.
15. Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.
16. Single application in respect of claims from unpaid group.
17. Appeal.
18. Powers of authorities appointed under section 15.
19. Power to recover from employer in certain cases.
20. Penalty for offences under the Act.
21. Procedure in trial of offences.
22. Bar of suits.
23. Contracting out.
24. Application of Act to Federal railways, mines and oilfields.
25. Display by notice of abstracts of the Act.
26. Rule making power.

### Act No. IV of 1936.<sup>1</sup>

[23rd April, 1936.]

#### An Act to regulate the payment of wages to certain classes of persons employed in industry.

WHEREAS it is expedient to regulate the payment of wages to certain classes of persons employed in industry; It is hereby enacted as follows:—

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, p. 20, and for Report of Select Committee, see *ibid.*, pp. 77 to 79.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

1. (1) This Act may be called the Payment of Wages Act, 1936.

Short title,  
extent,  
commence-  
ment and  
application.

(2) It extends to <sup>1</sup>[all the Provinces of India], including <sup>2</sup>\* \* \* the Sonthal Parganas.

(3) It shall come into force on such <sup>3</sup>date as the <sup>4</sup>[Central Government] may, by notification in the <sup>5</sup>[Official Gazette], appoint.

(4) It applies in the first instance to the payment of wages to persons employed in any factory and to persons employed (otherwise than in a factory) upon any railway by a railway administration or, either directly or through a sub-contractor, by a person fulfilling a contract with a railway administration.

(5) The <sup>6</sup>[Provincial Government] may, after giving three months' notice of its intention of so doing, by notification in the <sup>7</sup>[Official Gazette], extend the provisions of the Act or any of them to the payment of wages to any class of persons employed in any industrial establishment or in any class or group of industrial establishments.

(6) Nothing in this Act shall apply to wages payable in respect of a wage-period which, over such wage-period, average two hundred rupees a month or more.

2. In this Act, unless there is anything repugnant in the subject or con- Definitions.  
text,—

(i) "factory" means a factory as defined in clause (j) of section 2 of the Factories Act, 1934;

(ii) "industrial establishment" means any—

(a) tramway or motor omnibus service;

(b) dock, wharf or jetty;

(c) inland steam-vessel;

(d) mine, quarry or oil-field,

(e) plantation;

(f) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;

(iii) "plantation" means any estate which is maintained for the purpose of growing cinchona, rubber, coffee or tea, and on which twenty-five or more persons are employed for that purpose;

(iv) "prescribed" means prescribed by rules made under this Act;

(v) "railway administration" has the meaning assigned to it in clause (6) of section 3 of the Indian Railways Act, 1890; and

(vi) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of

XXV of  
1934.

IX of 1890.

<sup>1</sup> Subs. by the A. O. 1948, for "the whole of British India".

<sup>2</sup> The words "British Baluchistan and" rep. by the A. O. 1948.

<sup>3</sup> 28th March, 1937 : see Gazette of India, 1937, Pt. I, p. 626.

<sup>4</sup> Subs. by the A. O. 1937, for "G. G. in C".

<sup>5</sup> Subs. by the A. O. 1937, for "Gazette of India".

<sup>6</sup> Subs. by the A. O. 1937, for "L. G".

<sup>7</sup> Subs. by the A. O. 1937, for "local official Gazette."

employment, express or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behaviour of the person employed, or otherwise, to a person employed in respect of his employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment,<sup>1</sup> but does not include—

- (a) the value of any house-accommodation, supply of light, water, medical attendance or other amenity, or of any service excluded by general or special order of the <sup>1</sup>\* \* \* <sup>2</sup>[Provincial Government];
- (b) any contribution paid by the employer to any pension fund or provident fund;
- (c) any travelling allowance or the value of any travelling concession;
- (d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
- (e) any gratuity payable on discharge.

**Responsibility for payment of wages.**

3. Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act:

Provided that, in the case of persons employed (otherwise than by a contractor)—

- (a) in factories, if a person has been named as the manager of the factory under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934.
- (b) in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment,
- (c) upon railways (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned.

the person so named, the person so responsible to the employer, or the person so nominated, as the case may be, shall be responsible for such payment.

**Fixation of wage-periods**

4. (1) Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods)<sup>3</sup> in respect of which such wages shall be payable.

(2) No wage-period shall exceed one month.

**Time of payment of wages.**

5. (1) The wages of every person employed upon or in—

- (a) any railway, factory or industrial establishment upon or in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day,
- (b) any other railway, factory or industrial establishment, shall be paid before the expiry of the tenth day,

<sup>1</sup>The words "G. G. in C. or" rep. by the A. O. 1937.

<sup>2</sup>Subs. by the A. O. 1937, for "L. G."

after the last day of the wage-period in respect of which the wages are payable.

(2) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated.

(3) The <sup>1</sup>[Provincial Government] may, by general or special order, exempt, to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon any railway (otherwise than in a factory) from the operation of this section in respect of the wages of any such persons or class of such persons.

(4) All payments of wages shall be made on a working-day.

6. All wages shall be paid in current coin or currency notes or in both.

Wages to be paid in current coin or currency notes.

IX of 1890.

7. (1) Notwithstanding the provisions of sub-section (2) of section 47 of the Indian Railways Act, 1890, the wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under this Act.

Deductions which may be made from wages.

*Explanation.*—Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages.

(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:—

(a) fines;

(b) deductions for absence from duty;

(c) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;

(d) deductions for house-accommodation supplied by the employer;

(e) deductions for such amenities and services supplied by the employer as the <sup>2</sup>\* \* <sup>3</sup>[Provincial Government] may, by general or special order, authorise;

*Explanation.*—The word “services” in this sub-clause does not include the supply of tools and raw materials required for the purposes of employment.

(f) deductions for recovery of advances or for adjustment of over-payments of wages;

(g) deductions of income-tax payable by the employed person;

(h) deductions required to be made by order of a Court or other authority competent to make such order;

<sup>1</sup> Subs. by the A. O. 1937, for “G. G. in C.”

<sup>2</sup> The words “G. G. in C. or” rep. by the A. O. 1937.

<sup>3</sup> Subs. by the A. O. 1937, for “L. G.”



- (i) deductions for subscriptions to, and for repayment of advances from, any provident fund to which the Provident Funds Act, XIX of 1925, applies or any recognised provident fund as defined in section 58A of the Indian Income-tax Act, 1922, or any provident fund approved in this behalf by the <sup>1</sup>[Provincial Government], during the continuance of such approval; <sup>2</sup>\* \* \*
- (j) deductions for payments to co-operative societies approved by the <sup>1</sup>[Provincial Government] or to a scheme of insurance maintained by the Indian Post Office; <sup>3</sup>[and
- (k) deductions, made with the written authorisation of the employed person, in furtherance of any War Savings Scheme, approved by the Provincial Government, for the purchase of securities of the Government of India or the Government of the United Kingdom.]

## Fines.

8. (1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the <sup>1</sup>[Provincial Government] or of the prescribed authority, may have specified by notice under sub section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places.

(3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage period on any employed person shall not exceed an amount equal to half an anna in the rupee of the wages payable to him in respect of that wage-period.

(5) No fine shall be imposed on any employed person who is under the age of fifteen years.

(6) No fine imposed on any employed person shall be recovered from him by instalments or after the expiry of sixty days from the day on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.

*Explanation.*—When the persons employed upon or in any railway, factory or industrial establishment are part only of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

<sup>1</sup> Subs. by the A. O. 1937, for "L. G."

<sup>2</sup> The word "and" rep. by the Payment of Wages (Amendment) Ordinance, 1940 (3 of 1940) s. 2.

<sup>3</sup> Ins., *ibid.*

9. (1) Deductions may be made under clause (b) of sub-section (2) of section 7 only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work. **Deductions for absence from duty.**

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made a larger proportion than the period for which he was absent bears to the total period, within such wage-period, during which by the terms of his employment, he was required to work:

Provided that, subject to any rules made in this behalf by the [Provincial Government], if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

[*Explanation.*— For the purposes of this section, an employed person shall be deemed to be absent from the place where he is required to work if, although present in such place, he refuses, in pursuance of a stay-in strike or for any other cause which is not reasonable in the circumstances, to carry out his work.]

10. (1) A deduction under clause (c) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to the employer by the neglect or default of the employed person and shall not be made until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions. **Deductions for damage or loss.**

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

11. A deduction under clause (d) or clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person unless the house-accommodation, amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation, amenity or service supplied and, in the case of a deduction under the said clause (c), shall be subject to such conditions as <sup>3</sup>\* \* \* the [Provincial Government] may impose. **Deductions for services rendered.**

12. Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions, namely:— **Deductions for recovery of advances**

(a) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for travelling-expenses;

<sup>1</sup> Subs. by the A. O. 1937, for "L. G."

<sup>2</sup> Ins. by the Payment of Wages (Amendment) Act, 1937, (22 of 1937), s. 2.

<sup>3</sup> The words "the G. G. in C. or" rep. by the A. O. 1937.

- (b) recovery of advances of wages not already earned shall be subject to any rules made by the <sup>1</sup>[Provincial Government] regulating the extent to which such advances may be given and the instalments by which they may be recovered.

13. Deductions under clause (j) <sup>2</sup>[and clause (k)] of sub-section (2) of section 7 shall be subject to such conditions as the <sup>4</sup>[Provincial Government] may impose.

**Deductions for payments to co-operative societies and insurance schemes.**

14. (1) An Inspector of Factories appointed under sub-section (1) of section 10 of the Factories Act, 1934, shall be an Inspector for the purposes of this Act in respect of all factories within the local limits assigned to him.

**XXV of 1934.**

(2) The <sup>3</sup>[Provincial Government] may appoint Inspectors for the purposes of this Act in respect of all persons employed upon a railway (otherwise than in a factory) to whom this Act applies.

(3) The <sup>1</sup>[Provincial Government] may, by notification in the <sup>4</sup>[Official Gazette], appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories and industrial establishments in respect of which they shall exercise their functions.

(4) An Inspector may, at all reasonable hours, enter on any premises, and make such examination of any register or document relating to the calculation or payment of wages and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Act.

(5) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

**XLV of 1860**

15. (1) The <sup>1</sup>[Provincial Government] may, by notification in the <sup>4</sup>[Official Gazette], appoint any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area.

**Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.**

(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:

<sup>1</sup>Subs. by the A. O. 1937, for "L. G."

<sup>2</sup>Ins. by the Payment of Wages (Amendment) Ordinance, 1940 (3 of 1940), s. 3.

<sup>3</sup>Subs. by the A. O. 1937, for "G. G. in C."

<sup>4</sup>Subs. by the A. O. 1937, for "local official Gazette".

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding ten rupees in the latter:

Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to—

(a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person, or

(b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence to make prompt payment, or

(c) the failure of the employed person to apply for or accept payment.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, the authority may direct that a penalty exceeding fifty rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered—

(a) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate, and

(b) if the authority is not a Magistrate, by any Magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

16. (1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.

(2) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case the maximum compensation that may be awarded under sub-section (3) of section 15 shall be ten rupees per head.

(3) The authority may deal with any number of separate pending applications, presented under section 15 in respect of persons belonging to the same unpaid group, as a single application presented under sub-section (2) of this section, and the provisions of that sub-section shall apply accordingly.

17. (1) An appeal against a direction made under "[sub-section (3) or sub-section (4)] of section 15 may be preferred, within thirty days of the

Single application in respect of claims from unpaid group.

<sup>1</sup> Subs. by s. 2 and Sch. I of the Repealing and Amending Act, 1937 (20 of 1937), for "sub-section (3)";

date on which the direction was made, in a Presidency-town<sup>1</sup> \* before the Court of Small Causes and elsewhere before the District Court—

- (a) by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees, or
- (b) by an employed person, if the total amount of wages claimed to have been withheld from him or from the unpaid group to which he belonged exceeds fifty rupees, or
- (c) by any person directed to pay a penalty under [sub-section (4)] of section 15.

(2) Save as provided in sub-section (1), any direction made under sub-section (3) or [sub-section (4)] of section 15 shall be final.

**Powers of authorities appointed under section 15.**

18. Every authority appointed under sub-section (1) of section 15 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, **V of 1908.** for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898. **V of 1898.**

**Power to recover from employer in certain cases.**

19. When the authority referred to in section 15 or the Court referred to in section 17 is unable to recover from any person (other than an employer) responsible under section 3 for the payment of wages any amount directed by such authority under section 15 or section 17 to be paid by such person, the authority shall recover the amount from the employer of the employed person concerned.

**Penalty for offences under the Act.**

20. (1) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following sections, namely, section 5 and sections 7 to 13, both inclusive, shall be punishable with fine which may extend to five hundred rupees.

(2) Whoever contravenes the provisions of section 4, section 6 or section 25 shall be punishable with fine which may extend to two hundred rupees.

**Procedure in trial of offences.**

21. (1) No Court shall take cognizance of a complaint against any person for an offence under sub-section (1) of section 20, unless an application in respect of the facts constituting the offence has been presented under section 15 and has been granted wholly or in part and the authority empowered under the latter section or the appellate Court granting such application has sanctioned the making of the complaint.

(2) Before sanctioning the making of a complaint against any person for an offence under sub-section (1) of section 20, the authority empowered under section 15 or the appellate Court, as the case may be, shall give such person an opportunity of showing cause against the granting of such sanction, and the sanction shall not be granted if such person satisfies the authority or Court that his default was due to—

- (a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person, or

<sup>1</sup> The words "or in Rangoon" rep. by the A. O. 1937.

<sup>2</sup> Subs. by s. 2 and Sch. I of Act 20 of 1937 for "sub-section (5)",

(b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence to make prompt payment, or

(c) the failure of the employed person to apply for or accept payment.

(3) No Court shall take cognizance of a contravention of section 4 or of section 6 or of a contravention of any rule made under section 26 except on a complaint made by or with the sanction of an Inspector under this Act.

(4) In imposing any fine for an offence under sub-section (1) of section 20 the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 15.

22. No Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed—

**Bar of suits.**

(a) forms the subject of an application under section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or of an appeal under section 17; or

(b) has formed the subject of a direction under section 15 in favour of the plaintiff; or

(c) has been adjudged, in any proceeding under section 15, not to be owed to the plaintiff; or

(d) could have been recovered by an application under section 15.

23. Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.

**Contracting out.**

26 Geo. 5,  
c. 2.

<sup>1</sup>[24. The powers by this Act conferred upon the Provincial Government shall, in relation to Federal railways (within the meaning of the Government of India Act, 1935), mines and oilfields, be powers of the Central Government.]

**Application of Act to Federal railways, mines and oilfields.**

25. The person responsible for the payment of wages to persons employed in a factory shall cause to be displayed in such factory a notice containing such abstracts of this Act and of the rules made thereunder in English and in the language of the majority of the persons employed in the factory, as may be prescribed.

**Display by notice of abstracts of the Act.**

26. (1) The <sup>2</sup>[Provincial Government] may make rules<sup>3</sup> to regulate the procedure to be followed by the authorities and Courts referred to in sections 15 and 17.

**Rule-making power.**

(2) The <sup>4</sup>[Provincial Government] may, <sup>5</sup>\* \* \* by notification in the <sup>6</sup>[Official Gazette], make rules<sup>7</sup> for the purpose of carrying into effect the provisions of this Act.

<sup>1</sup> Subs. by the A. O. 1937, for the original section.

<sup>2</sup> Subs. by the A. O. 1937 for "G. G. in C".

<sup>3</sup> For the Payment of Wages (Procedure) Rules 1937, made by the G. G. in C. under this provision, see Gazette of India 1937, Part I, pp. 303-312.

<sup>4</sup> Subs. by A. O. 1937 for "L. G."

<sup>5</sup> The words "subject to the control of the G. G. in C." rep. by A. O. 1937.

<sup>6</sup> Subs. by A. O. 1937 for "local Official Gazette."

<sup>7</sup> For the Payment of Wages (Railways) Rules 1937, made by the G. G. in C. under this provision read with s. 24, see Gazette of India 1937 Part I, pp. 503-512.

(3) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (2) may—

- (a) require the maintenance of such records, registers, returns and notices as are necessary for the enforcement of the Act and prescribe the form thereof;
- (b) require the display in a conspicuous place on premises where employment is carried on of notices specifying rates of wages payable to persons employed on such premises;
- (c) provide for the regular inspection of the weights, measures and weighing machines used by employers in checking or ascertaining the wages of persons employed by them;
- (d) prescribe the manner of giving notice of the days on which wages will be paid;
- (e) prescribe the authority competent to approve under sub-section (1) of section 8 acts and omissions in respect of which fines may be imposed;
- (f) prescribe the procedure for the imposition of fines under section 8 and for the making of the deductions referred to in section 10;
- (g) prescribe the conditions subject to which deductions may be made under the proviso to sub-section (2) of section 9;
- (h) prescribe the authority competent to approve the purposes on which the proceeds of fines shall be expended;
- (i) prescribe the extent to which advances may be made and the instalments by which they may be recovered with reference to clause (b) of section 12;
- (j) regulate the scales of costs which may be allowed in proceedings under this Act;
- (k) prescribe the amount of court fees payable in respect of any proceedings under this Act; and
- (l) prescribe the abstracts to be contained in the notices required by section 25.

(4) In making any rule under this section the <sup>1</sup>[Provincial Government] may provide that a contravention of the rule shall be punishable with fine which may extend to two hundred rupees.

(5) All rules made under this section shall be subject to the condition of previous publication, and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897, shall not be less than three months from **X of 1897**, the date on which the draft of the proposed rules was published.

<sup>1</sup> Subs. by the A.O. 1937, for "I.G."

## THE DECREES AND ORDERS VALIDATING ACT, 1936. Act No. V of 1936.<sup>1</sup>

[26th April, 1936]

**An Act to remove certain doubts and to establish the validity of certain proceedings in High Courts of Judicature in [the Provinces].**

**W**HEREAS doubts have arisen as to the validity of certain proceedings in High Courts of Judicature in [the Provinces] under the Letters Patent creating and establishing those Courts;

AND WHEREAS it is expedient to terminate those doubts and to establish the validity of those proceedings;

It is hereby enacted as follows.—

1. (1) This Act may be called the Decrees and Orders Validating Act, 1936. **Short title and extent.**

(2) It extends to [all the Provinces of India], including <sup>3</sup> \* \* \* the Nonthal Parganas.

2. No decree passed or order made by the High Court of Judicature at Fort William in Bengal, the High Court of Judicature at Madras or the High Court of Judicature at Bombay, in the exercise of its ordinary original civil jurisdiction under clause 12 of its Letters Patent, or by the High Court of Judicature at Rangoon, in the exercise of its original civil jurisdiction under clause 10 of its Letters Patent, shall be called in question in any proceedings before any other Court on the ground that the High Court passing the decree or making the order had no jurisdiction to pass or make the decree or order. **Certain decrees and orders not to be called in question.**

3. Where in any proceedings concluded on or after the 26th day of August, 1935, any such decree or order has been found to be invalid on such ground by any Court, such finding shall be void and of no effect; and the Court shall, notwithstanding anything to the contrary in the Indian Limitation Act, 1908, or any other law for the time being in force, on application made within six months from the commencement of this Act by any person prejudicially affected by such finding, restore the proceedings at and continue the proceedings from the stage reached immediately before the order embodying or based on such finding was made. **Restoration of proceedings.**

**IX of 1908.**

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, p. 20.

This Act has been partially extended to Berar by the Berar Laws Act, 1941 (1 of 1941).

<sup>2</sup> Subs. by the A.O. 1948 for "British India".

<sup>3</sup> Subs. by the A. O. 1948 for "the whole of British India".

<sup>4</sup> The words "British Baluchistan and" rep. by the A.O. 1948.



## THE GENEVA CONVENTION IMPLEMENTING ACT, 1936.

Act No. XIV of 1936.<sup>1</sup>

[27th October, 1936.]

An Act to implement Article 28 of the Geneva Convention of the  
27th day of July, 1929.

**W**HEREAS India was a signatory to the International Convention for the Amelioration of the Conditions of the Wounded and Sick in Armies in the Field, drawn up in Geneva and dated the 27th day of July, 1929;

AND WHEREAS it is necessary to provide for the discharge of the obligations imposed by Article 28 of that Convention in so far as provision has not been made by the Geneva Convention Act, 1911; &2 Geo.  
5c. 23.

It is hereby enacted as follows:—

**Short title  
and extent.**

1. (1) This Act may be called the Geneva Convention Implementing Act, 1936.

(2) It extends to <sup>2</sup>[all the Provinces of India], including <sup>3</sup>\* \* \* the Northern Parganas.

**Prohibition  
of use of  
imitations of  
emblem of  
red cross on  
white  
ground.**

2. No person shall use for the purposes of his trade or business or for any other purpose whatsoever any sign constituting a colourable imitation of the heraldic emblem of the red cross on a white ground formed by reversing the federal colours of Switzerland.

**Prohibition  
of use of  
emblem of  
white cross  
on red  
ground or  
imitations  
thereof.**

3. No person shall use for the purposes of his trade or business the heraldic emblem of the white cross on a red ground, being the federal colours of Switzerland, or any sign constituting a colourable imitation of that heraldic emblem.

**Penalty.**

4. Any person contravening the provisions of section 2 or section 3 shall be punishable with fine which may extend to fifty rupees, and when such contravention is committed by a company, association or body of individuals, then, without prejudice to the liability of such company, association or body, every member thereof who is knowingly a party to the contravention shall be liable to the like penalty.

**Previous  
sanction for  
prosecution.**

5. No criminal Court shall take cognizance of any offence punishable under this Act except with the previous sanction of the <sup>4</sup>[Central Government] <sup>5</sup>\* \* \*.

**Saving.**

6. Nothing in the foregoing sections shall affect the right of any person to continue to use for a period of two years from the commencement of this Act any sign or emblem which it was not unlawful for him to use at the commencement of this Act.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, p. 810.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Subs. by the A.O. 1948 for "the whole of British India".

<sup>3</sup> The words "British Baluchistan and" rep. by the A.O. 1948.

<sup>4</sup> Subs. by the A.O. 1937 for "(G.G. in C.)".

<sup>5</sup> The words "or the L.G." rep. by the A.O. 1937.

## THE BANGALORE MARRIAGES VALIDATING ACT, 1936.

Act No. XVI of 1936.<sup>1</sup>

[27th October, 1936.]

## An Act to validate certain marriages solemnized in the Civil and Military Station of Bangalore.

**W**HEREAS Mr. Walter James McDonald Redwood, a Missionary of the Plymouth Brethren, was, in the year 1929, granted by the Resident in Mysore a licence, under the Indian Christian Marriage Act, 1872, as applied to the Civil and Military Station of Bangalore, to solemnize marriages within the territories included in the Civil and Military Station of Bangalore between persons one of whom was a Native Christian subject of Mysore, and neither of whom was a Christian subject of His Majesty;

AND WHEREAS the said Walter James McDonald Redwood has, in the belief that he was authorised so to do, solemnized certain marriages in the Civil and Military Station of Bangalore between certain Christian subjects of His Majesty;

AND WHEREAS the parties to the said marriages all believed that the said Walter James McDonald Redwood was duly authorised to solemnize the same, and that such marriages were valid in law;

AND WHEREAS the said parties being Christian subjects of His Majesty, the said Walter James McDonald Redwood had not the requisite authority under the licence held by him to solemnize the said marriages;

AND WHEREAS it is expedient that the said marriages, having been solemnized in good faith, should be validated;

It is hereby enacted as follows:—

1. This Act may be called the Bangalore Marriages Validating Act, **Short title.**  
1936.

2. All marriages between Christian subjects of His Majesty which have already been solemnized in the Civil and Military Station of Bangalore by Mr. Walter James McDonald Redwood, a Missionary of the Plymouth Brethren, shall be, and shall be deemed to have been with effect from the date of solemnization of each respectively, as good and valid in law as if such marriages had been solemnized under a licence authorizing solemnization of marriages between Christian subjects of His Majesty in the Civil and Military Station of Bangalore. **Validation of certain irregular marriages.**

3. Certificates of marriages which are declared by section 2 to be good and valid in law, and register-books and certified copies of true and duly authenticated extracts therefrom, deposited in compliance with the provisions of the Indian Christian Marriage Act, 1872, in so far as the register-books and extracts relate to such marriages as aforesaid, shall be received as evidence of such marriages as if such marriages had been duly solemnized under Part I of the said Act. **Validation of records of regular marriages.**

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, p. 314.

# THE RED CROSS SOCIETY (ALLOCATION OF PROPERTY) ACT, 1936.

Act No. XVIII of 1936.<sup>1</sup>

[27th October, 1936.]

An Act to provide out of the property of the Indian Red Cross Society a Fund to be administered in Burma by a Burma Red Cross Society, and to terminate in Burma the existing functions of the Indian Red Cross Society.

**WHEREAS** it is expedient to provide out of the property of the Indian Red Cross Society a Fund to be administered in Burma by a Burma Red Cross Society, and to terminate in Burma the existing functions of the Indian Red Cross Society; It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Red Cross Society (Allocation of Property) Act, 1936.

(2) It extends to <sup>2</sup>[all the Provinces of India], including <sup>3</sup>\* \* \* the Sonthal Parganas.

Apportionment of corpus of property of Indian Red Cross Society.

2. Notwithstanding anything contained in the Indian Red Cross Society Act, 1920, an amount equal to seven per cent. of the corpus of the property vested by the said Act in the Indian Red Cross Society (which amount is in this Act referred to as the Fund) shall be set apart to be administered in the Province of Burma as a trust by such body of trustees as the High Court of Judicature at Rangoon may appoint, and in accordance with, and for such of the purposes referred to in section 7 of the said Act as may be contained in, any scheme settled by the said High Court.

**XV of 1920.**

Transfer of apportioned property to trustees and dissolution of Burma Branch Committee of Indian Red Cross Society.

3. As soon as the High Court of Judicature at Rangoon has settled a scheme and made an order vesting the Fund in the body of trustees referred to in section 2 the Managing Body of the Indian Red Cross Society shall transfer the Fund to the said body of trustees and thereupon the Burma Provincial Committee of the Indian Red Cross Society, known as the Indian Red Cross Society, Burma Branch, shall be dissolved and all property of or belonging to that Committee, including the unexpended balance, if any, of any moneys distributed to that Committee under section 8 of the Indian Red Cross Society Act, 1920, shall be transferred to and shall vest in the said body of trustees to be held by them in the same manner and, subject to the scheme settled by the said High Court, for the same purposes as such property was held by that Committee.

**XV of 1920.**

Cesser of provisions of Indian Red Cross Society Act, 1920.

4. On the making of the vesting order referred to in section 3 the provisions of the Indian Red Cross Society Act, 1920, and of any rules made thereunder relating to Branch Committees in the Provinces, their constitution, powers or functions, their representation on the Managing Body of the Indian Red Cross Society, and their right to receive a proportion of the

**XV of 1920.**

<sup>1</sup>For Statement of Objects and Reasons, *see* Gazette of India, 1936, Pt. V, p. 316.

<sup>2</sup>Subs. by the A.O. 1918 for "the whole of British India."

<sup>3</sup>The words "British Baluchistan" and" rep. by the A.O. 1948,

income of property vested in the Society, shall cease to have effect in respect of the Province of Burma and of the Indian Red Cross Society, Burma Branch Committee.

---

## THE DURGAH KHAWAJA SAHEB ACT, 1936.

---

### CONTENTS.

#### SECTIONS.

1. Short title and commencement.
2. Definitions.
3. Act to override Act XX of 1863.
4. The Committee.
5. Composition of Committee.
6. Electoral area.
7. Qualifications of electors.
8. Qualifications of candidates for election.
9. Term of office of members and casual vacancies.
10. President and Vice-President.
11. Powers and duties of the Committee.
12. Sub-Committees.
13. Committee to observe Mohammadan law and tenets of the Chishti Saints
14. Rules.
15. Bye-laws.
16. Board of Arbitration.
17. Validity of proceedings of the Committee.
18. Restriction on powers of Committee.
19. Expenditure of income.
20. Audit of accounts and annual report.

---

### Act No. XXIII of 1936.<sup>1</sup>

[27th October, 1936.]

**An Act to make better provision for the administration of the Durgah and the Endowment of the Durgah of Khawaja Moin-ud-din Chishti, generally known as Durgah Khawaja Saheb, Ajmer.**

**W**HEREAS it is expedient to make better provision for the administration of the Durgah Khawaja Saheb, Ajmer; It is hereby enacted as follows:—

1. (1) This Act may be called the Durgah Khawaja Saheb Act, 1936. **Short title**

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, p. 146.

and com-  
mencement.

(2) It shall come into force on such date<sup>1</sup> (not later than six months after this Act receives the assent of the <sup>2</sup>[Central Government]) as the <sup>3</sup>[Provincial Government] may, by notification in the <sup>4</sup>[Official Gazette], appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (1) "Committee" means the Durgah Committee constituted under this Act;
- (2) "Court" means the principal Court of original civil jurisdiction;
- (3) "Durgah" means the institution known as the Durgah Khawaja Saheb, Ajmer, and includes the premises called the Durgah Sharif with all buildings contained therein, together with all additions thereto or alterations thereof which may be made after the commencement of this Act;
- (4) "Durgah Endowment" includes—
  - (a) the Durgah Khawaja Saheb, Ajmer;
  - (b) all buildings and movable property within the boundaries of the Durgah Sharif;
  - (c) Durgah Jagir including all land, houses and shops and all landed property wheresoever situated belonging to the Durgah Sharif;
  - (d) all other property <sup>5</sup>\* \* and all income derived from any source whatsoever, dedicated to the Durgah or placed for any religious, pious or charitable purposes under the Durgah Administration; and
  - (e) only such offerings as are intended explicitly for the use of the Durgah;
- (5) The words "trustee, Manager, or superintendent" used in this Act shall have the same meaning and application as under the **XX of 1903**, Religious Endowments Act, 1863.

Act to over-  
ride Act XX  
of 1863.

3. This Act shall have effect notwithstanding anything inconsistent therewith contained in the Religious Endowments Act, 1863.

The

Committee. be vested in a Committee constituted in the manner hereinafter provided.

(2) The Committee shall by the name of "The Durgah Committee, Ajmer" be a body corporate and shall have perpetual succession and a common seal and shall by the said name sue and be sued through its President.

Composition  
of Com-  
mittee.

<sup>6</sup>[5. (1) The Committee shall consist of twenty-five members, who shall be Hanafi Muslims, namely:—

- (a) the Sajjadanashin for the time being, *ex-officio*, or his nominee;
- (b) the Mutawalli for the time being, *ex-officio*, or his nominee;

<sup>1</sup> 19th April, 1937: see Gazette of India, 1937, Pt. II-A, p. 281.

<sup>2</sup> Subs. by the A.O. 1937, for "G. G."

<sup>3</sup> Subs. by the A.O. 1937, for "Chief Commissioner".

<sup>4</sup> Subs. by the A.O. 1937, for "Gazette of India".

<sup>5</sup> The words "in India" rep. by the Durgah Khawaja Saheb (Amendment) Act, 1938 (12 of 1938), s. 2.

<sup>6</sup> Subs., *ibid.* s. 3, for the original section,

- (c) two elected from among their own number by members of the Khadim community who are recorded as voters in the register of voters for the Ajmer Municipal Committee;
  - (d) five elected from among their own number by Muslims (other than members of the Khadim community) who are recorded as voters in the register of voters for the Ajmer Municipal Committee;
  - (e) eleven, not being persons residing within the limits of the Ajmer Municipality, elected in the following manner, namely:—
    - (i) three by the Muslim members of the Central Legislature;
    - (ii) one by the Muslim members of the Provincial Legislature of Madras;
    - (iii) one by the Muslim members of the Provincial Legislature of Bombay;
    - (iv) one by the Muslim members of the Provincial Legislature of Bengal;
    - (v) one by the Muslim members of the Provincial Legislature of the United Provinces;
    - (vi) one by the Muslim members of the Legislative Assembly of the Punjab;
    - (vii) one by the Muslim members of the Provincial Legislature of Bihar;
    - (viii) one by the Muslim members of the Legislative Assembly of the North-West Frontier Province; and
    - (ix) one by the Muslim members of the Legislative Assembly of Sind;
  - (f) one nominated by His Exalted Highness the Nizam of Hyderabad and Berar; and
  - (g) four Sajjadanashins of the shrines of the Chisti order of Sufis co-opted by the members of the Committee referred to in clauses (a) to (f).
- (2) No person shall be qualified to be a member of the Committee if—
- (a) he cannot read and write Urdu, or;
  - (b) he has been convicted by a Criminal Court of any offence involving moral turpitude, and sentenced to imprisonment for a period exceeding three months:
- Provided that the Central Government may, by special order, declare that any person disqualified under this clause shall cease to be so disqualified.

(3) No person shall be disqualified for election to the Committee under clause (e) of sub-section (1) by reason only of the fact that he is not a member of the Legislature or Legislative Assembly concerned.

(4) If any authority or body entitled to elect, nominate or co-opt a member fails to do so within six months, the Central Government may nominate a member to fill the vacancy from among persons qualified to be elected, nominated or co-opted in respect of the vacancy.]

6. [Electoral area.]  
 7. [Qualifications of electors.] Rep. by the Durgah Khawaja Sahib (Amendment) Act, 1938 (12 of 1938), s. 4.  
 8. [Qualifications of candidates for election.]

**Term of office of members and casual vacancies.**

<sup>1</sup>[9. (1) Members of the Committee, other than those referred to in clauses (a) and (b) of sub-section (1) of section 5, shall hold office for five years from the date of their election, nomination or co-option; and casual vacancies among such members shall be filled by election, nomination or co-option, as the case may be, by the authority which elected, nominated or co-opted the member whose place is to be filled.

(2) The term of office of a member elected, nominated or co-opted to fill a casual vacancy shall continue for so long only as the member whose place has been filled would have been entitled to hold office if the vacancy had not occurred.]

**President and Vice-President.**

10. (1) The Committee shall elect a President and a Vice-President from among its members <sup>2</sup>[other than those referred to in clauses (a) to (c) of sub-section (1) of section 5.]

(2) When the office of the President is vacant or in the absence of the President from any meeting, the Vice-President shall exercise the functions of the President.

(3) In the absence of the President and Vice-President, a meeting of the Committee may be presided over by a member elected by the majority of the members present at the meeting.

**Powers and duties of the Committee.**

11. (1) The Committee shall take the place of and shall supersede the Committee appointed under section 7 of the Religious Endowments Act, **XX of 1863.** 1863.

(2) The duties and powers of the Committee shall be—

- (a) to manage the Durgah Endowment;
- (b) to keep the buildings within the boundaries of the Durgah Sharif and all buildings, houses and shops comprised in the Durgah Endowment in proper order and in a state of good repair;
- (c) to receive all moneys and other income of the Durgah Endowment;
- (d) to see that the endowment funds are spent in the manner desired by the donors;
- (e) to pay salaries, allowances, and perquisites, and make all other payments due out of or charged on the revenues or income of the Durgah Endowment;
- (f) to engage, appoint, promote, degrade, suspend or dismiss servants of the Durgah Endowment;
- (g) to do all other such things as may be incidental or conducive to efficient administration.

<sup>1</sup> Subs. by the Durgah Khawaja Sahib (Amendment) Act, 1938 (12 of 1938), s. 5 for the original section.

<sup>2</sup> Subs., *ibid.*, s. 6 for "except those who are elected under items (a), (b) and (c) of section 5",

<sup>1</sup>[(3) The Committee shall exercise its powers of administration, control and management of the Durgah Endowment through the Mutawalli, who shall be the Manager of the Durgah Endowment.]

12. The Committee may appoint such and so many standing and special committees as it deems fit, and may appoint to them persons who are not members of the Committee, to exercise such powers and perform such duties as may <sup>2</sup>subject to such conditions, if any, as the Committee may impose] be delegated to them by the Committee \* \* \*.

**Sub-Committees.**

13. Save as otherwise provided under any enactment for the time being in force the Committee shall, in the exercise of its powers and the discharge of its duties, follow the rules of the Mohammadan law applicable to Hanafi Mussalmans in <sup>4</sup>[the Provinces]; and shall conduct and regulate the established rites and ceremonies in accordance with the tenets of the Chishti Saints.

**Committee to observe Mohammadan law and tenets of the Chishti Saints.**

<sup>5</sup>[14. In the case of elections under clause (c) or clause (d) of sub-section (1) of section 5, the Chief Commissioner, and, in the case of elections under clause (c) of the said sub-section, the Presidents of both Chambers of the Legislature concerned, acting together, or the President of the Legislative Assembly concerned, as the case may be, may make rules to provide for—

**Rules.**

- (i) the procedure for such elections; and
- (ii) the decision of election disputes.

15. (1) The Committee may make bye-laws to carry out the purposes of this Act.

**Bye-laws.**

(2) In particular and without prejudice to the generality of the foregoing power such bye-laws may provide for—

- (a) the division of duties among the President and members of the Committee;
- (b) the establishment and term of office of Sub-Committees and their powers and duties;
- (c) the time and place of, the quorum for, and the procedure and conduct of business at, the meetings of the Committee and of Sub-Committees;
- (d) the security, if any, to be taken from the servants of the Committee;
- (e) the books and accounts to be kept at the office of the Committee;
- (f) the custody and investment of the property and funds of the Durgah;
- (g) the details to be included in or excluded from the budget of the Durgah;
- (h) the persons by whom receipts may be granted for money paid to the Committee;

<sup>1</sup> Subs. by the Durgah Khawaja Sahib (Amendment) Act, 1938 (12 of 1938), s. 7 for the original sub-section.

<sup>2</sup> Ins., *ibid.* s. 8.

<sup>3</sup> The words "subject to the confirmation by the Committee" rep., *ibid.*

<sup>4</sup> Subs. by the A.O. 1948 for "British India".

<sup>5</sup> Subs. by Act 12 of 1938, s. 9 for the original section as amended by the A.O. 1937.



- (i) the accounts, returns and reports to be submitted by the trustee, Manager, or superintendent;
- (j) maintenance of peace and order within the Durgah compound;
- (k) the duties and powers of the trustee, Manager, or superintendent and other officers and servants of the Durgah;
- (l) the manner of entering into contracts by or on behalf of the Committee.

(3) All bye-laws made by the Committee under this section shall first be published in draft for objections by being hung up on the premises of the Durgah.

**Board of Arbitration.**

<sup>1</sup>16. (1) Any dispute arising between the Committee on the one part and the Sajjadanashin, the Mutawalli and any Khadim, or any of them, on the other part, relating to the privileges of the Sajjadanashin, the Mutawalli or such Khadim, shall, at the request of either party to the dispute, be referred to a Board of Arbitration consisting of—

- (i) a nominee of the Committee;
- (ii) a nominee of the other party to the dispute; and
- (iii) a person who holds or has held the office of, or is acting or has acted as, a District Judge, to be appointed by the Chief Commissioner,

and the decision of the Board shall be final and shall not be questioned in any Court.

(2) No suit shall lie in any Court in respect of any matter which is required by sub-section (1) to be referred to a Board of Arbitration.]

**Validity of proceedings of the Committee**

17. No act or proceeding of the Committee shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

**Restriction on powers of Committee.**

18. <sup>2</sup>[The Committee shall not use the property, movable or immovable,] of the Durgah Endowment for any purpose other than those intended by the founders of the Wakf.

**Expenditure of income.**

19. The Committee shall in the expenditure of the income of the Durgah Endowment abide by the directions contained in the Wakf-Deed and shall allot not less than 20 per cent. of the income from <sup>3</sup>[the] Durgah Endowment to religious preaching.

**Audit of accounts and annual report.**

<sup>4</sup>[20. (1) The accounts of the Durgah shall be audited every year by an auditor holding a certificate granted under sub-section (1) of section 144 of the Indian Companies Act, 1913. VII of 1

(2) The Committee shall every year prepare a report on the administration of the Durgah, which, together with the accounts of the Durgah and the report of the auditor thereon, shall be published in the Gazette of India.]

<sup>1</sup> Subs. by the Durgah Khawaja Saheb (Amendment) Act, 1938 (12 of 1938), s. 10 for the original section as amended by the A.O. 1937.

<sup>2</sup> Subs., *ibid*, s. 11 for "The Durgah Committee shall not be empowered to use the property movable and immovable".

<sup>3</sup> *Ins.*, *ibid*, s. 12.

<sup>4</sup> Subs., *ibid*, s. 13 for the original section.

## THE AGRICULTURAL PRODUCE (GRADING AND MARKING) ACT, 1937.

<sup>1</sup>Act No. I of 1937

[24th February, 1937]

### An Act to provide for the grading and marking of agricultural [and other] produce.

**W**HEREAS it is expedient to provide for the grading and marking of agricultural [and other] produce; It is hereby enacted as follows:—

1 (1) This Act may be called the Agricultural Produce (Grading and Marking) Act, 1937 **Short title and extent,**

(2) It extends to [all the Provinces of India]

2 In this Act, unless the contrary appears from the subject or **Explanations.**  
context,—

(a) "agricultural produce" includes all produce of agriculture or horticulture and all articles of food or drink wholly or partly manufactured from any such produce, and fleeces and the skins of animals;

LV of 1860

(b) "counterfeit" has the meaning assigned to that word by section 28 of the Indian Penal Code

(c) "covering" includes any vessel, box, crate, wrapper, tray or other container;

(d) "grade designation" means a designation prescribed as indicative of the quality of any scheduled article,

(e) "grade designation mark" means a mark prescribed as representing a particular grade designation,

(f) "quality", in relation to any article, includes the state and condition of the article;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "scheduled article" means an article included in the Schedule, and

(i) an article is said to be marked with a grade designation mark if the article itself is marked with a grade designation mark or any covering containing or label attached to such article is so marked.

3. The [Central Government] may, after previous publication by notification in the [Official Gazette], make rules<sup>6</sup>— **Prescription of grade designations.**

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, Extraordinary, dated 18th February, 1937, p. 71

<sup>2</sup> This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941)

<sup>3</sup> Ins. by the Agricultural Produce (Grading and Marking) (Amendment) Act, 1942 (13 of 1942), s. 2 (with effect from 24th February 1937).

<sup>4</sup> Subs. by the A.O. 1948 for "the whole of British India, including British Baluchistan and the Sonthal Parganas but excluding Burmah".

<sup>5</sup> Subs. by the A.O. 1937 for "G. G. in C.",

<sup>6</sup> Subs. by the A.O. 1937 for "Gazette of India"

<sup>7</sup> For such rules, see Gazette of India, 1937, Pt. I, pp. 547 to 564.

- (a) fixing grade designations to indicate the quality of any scheduled article;
- (b) defining the quality indicated by every grade designation;
- (c) specifying grade designation marks to represent particular grade designations;
- (d) authorising a person or a body of persons, subject to any prescribed conditions, to mark with a grade designation mark any article in respect of which such mark has been prescribed or any covering containing or label attached to any such article,
- (e) specifying the conditions referred to in clause (d) including in respect of any article conditions as to the manner of marking, the manner in which the article shall be packed, the type of covering to be used, and the quantity by weight, number or otherwise to be included in each covering;
- (f) Providing for the payment of any expenses incurred in connection with the manufacture or use of any implement necessary for the reproduction of a grade designation mark or with the manufacture or use of any covering or label marked with a grade designation mark <sup>1</sup>[or with measures for the control of the quality of articles marked with grade designation marks including testing of samples and inspection of such articles or with any publicity work carried out to promote the sale of any class of such articles]; and
- (g) providing for the confiscation and disposal of produce marked otherwise than in accordance with the prescribed conditions with a grade designation mark.

**Penalty for unauthorised marking with grade designation mark.**

4. Whoever marks any scheduled article with a grade designation mark, not being authorised to do so by rule made under section 3, shall be punishable with fine which may extend to five hundred rupees.

**Penalty for counterfeiting grade designation mark.**

5. Whoever counterfeits any grade designation mark or has in his possession any die, plate or other instrument for the purpose of counterfeiting a grade designation mark shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

**Extension of application of Act.**

6. The <sup>2</sup>[Central Government], after such consultation as <sup>3</sup>[it] thinks fit of the interests likely to be affected, may by notification in the <sup>4</sup>[Official Gazette] declare that the provisions of this Act shall apply to an article of agricultural produce not included in the Schedule, <sup>5</sup>[or to an article other than an article of agricultural produce] and on the publication of such notification such article shall be deemed to be included in the Schedule.

<sup>1</sup> Ins. by the Agricultural Produce (Grading and Marking) Amendment Act, 1943 (20 of 1943), s. 2.

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in C.".

<sup>3</sup> Subs. by the A.O. 1937 for "he".

<sup>4</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>5</sup> Ins. by the Agricultural Produce (Grading and Marking) (Amendment) Act, 1942 (13 of 1942) (with effect from 24th February, 1937).

THE SCHEDULE

(See section 2.)

1. Fruit.
2. Vegetables. •
3. Eggs.
4. Dairy produce. .
5. Tobacco.
6. Coffee.
7. Hides and Skins.

THE ARBITRATION (PROTOCOL AND CONVENTION)  
ACT, 1937.

Act No. VI of 1937.<sup>1</sup>

[4th March, 1937.]

An Act to make certain further provisions respecting the law of  
arbitration in <sup>2</sup>[the Provinces of India].

WHEREAS India was a State signatory to the Protocol on Arbitration (Clauses set forth in the First Schedule, and to the Convention on the Execution of Foreign Arbitral Awards set forth in the Second Schedule, subject in each case to a reservation of the right to limit its obligations in respect thereof to contracts which are considered as commercial under the law in force in <sup>2</sup>[the Provinces of India].

AND WHEREAS it is expedient, for the purpose of giving effect to the said Protocol and of enabling the said Convention to become operative in <sup>2</sup>[the Provinces of India], to make certain further provisions respecting the law of arbitration ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Arbitration (Protocol and Convention) Act, 1937. Short title  
extent and  
operation.

(2) It extends to <sup>3</sup>[all the Provinces of India] including <sup>4</sup>\* \* \* the Southal Parganas.

(3) The provisions of this Act, except this section, shall have effect only from such date, as the <sup>5</sup>[Central Government] may, by notification in the

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, p. 10; and Report of Select Committee, see *ibid.*, 1937, Pt. V, p. 73.

This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Subs. by the A.O. 1948 for "British India".

<sup>3</sup> Subs. by the A.O. 1948 for "the whole of British India".

<sup>4</sup> The words "British Baluchistan and" rep. by the A.O. 1948.

<sup>5</sup> Subs. by the A.O. 1937 for "G. G. in C.".

<sup>1</sup>[Official Gazette], appoint in this behalf, and the <sup>2</sup>[Central Government] may appoint different dates<sup>3</sup> for the coming into effect of different provisions of the Act.

Interpreta-  
tion.

2. In this Act "foreign award" means an award on differences relating to matters considered as commercial under the law in force in <sup>4</sup>[the Provinces] made after the 28th day of July, 1924,—

- (a) in pursuance of an agreement for arbitration to which the Protocol set forth in the First Schedule applies, and
- (b) between persons of whom one is subject to the jurisdiction of some one of such Powers as the <sup>2</sup>[Central Government], being satisfied that reciprocal provisions have been made, may, by notification<sup>5</sup> in the <sup>1</sup>[Official Gazette], declare to be parties to the Convention set forth in the Second Schedule, and of whom the other is subject to the jurisdiction of some other of the Powers afore said, and
- (c) in one of such territories as the <sup>2</sup>[Central Government], being satisfied that reciprocal provisions have been made, may, by like notification, declare to be territories to which the said Convention applies,

and for the purposes of this Act an award shall not be deemed to be final if any proceedings for the purpose of contesting the validity of the award are pending in the country in which it was made.

Stay of  
proceedings  
in respect  
of matters  
to be  
referred to  
arbitration.

3. Notwithstanding anything contained in the <sup>6</sup>[Arbitration Act X of 1940. V of 1908. 1940], or in the Code of Civil Procedure, 1908, if any party to a submission made in pursuance of an agreement to which the Protocol set forth in the First Schedule as modified by the reservation subject to which it was signed by India applies, or any person claiming through or under him, commences any legal proceedings in any Court against any other party to the submission or any person claiming through or under him in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement or taking any other steps in the proceedings, apply to the Court to stay the proceedings; and the Court, unless satisfied that the agreement or arbitration has become inoperative or cannot proceed, or that there is not in fact any dispute between the parties with regard to the matter agreed to be referred, shall make an order staying the proceedings.

Effect of  
foreign  
awards.

4. (1) A foreign award shall, subject to the provisions of this Act, be enforceable in <sup>4</sup>[the Provinces] as if it were an award made on a matter referred to arbitration in <sup>4</sup>[the Provinces].

(2) Any foreign award which would be enforceable under this Act shall be treated as binding for all purposes on the persons as between whom it was made, and may accordingly be relied on by any of those persons by way of

<sup>1</sup> Subs. by the A.O. 1937 for "Gazette of India".

<sup>2</sup> Subs. by the A.O. 1937 for "G. G. in C.".

<sup>3</sup> S. 8 came into effect on the 30th November, 1937: see Gazette of India, 1937, Pt. I, p. 1945; and ss. 2 and 4 to 10 on the 23rd January, 1938: see *ibid*, 1938, Pt. I, p. 25.

<sup>4</sup> Subs. by the A.O. 1948 for "British India".

<sup>5</sup> For such notification, see Gazette of India, 1938, Pt. I, p. 24.

<sup>6</sup> Subs. by the Repealing and Amending Act, 1940 (32 of 1940), s. 3 and Sch. II for "Indian Arbitration Act, 1899".

defence set off or otherwise in any legal proceedings in [the Provinces], and any references in this Act to enforcing a foreign award shall be construed as including references to relying on an award.

5. (1) Any person interested in a foreign award may apply to any Court having jurisdiction over the subject-matter of the award that the award be filed in Court. **Filing of foreign award in Court.**

(2) The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

(3) The Court shall direct notice to be given to the parties to the arbitration, other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

6. (1) Where the Court is satisfied that the foreign award is enforceable under this Act, the Court shall order the award to be filed and shall proceed to pronounce judgment according to the award. **Enforcement of foreign award.**

(2) Upon the judgment so pronounced a decree shall follow, and no appeal shall lie from such decree except in so far as the decree is in excess of or not in accordance with the award.

7. (1) In order that a foreign award may be enforceable under this Act it must have— **Conditions for enforcement of foreign awards.**

- (a) been made in pursuance of an agreement for arbitration which was valid under the law by which it was governed,
- (b) been made by the tribunal provided for in the agreement or constituted in manner agreed upon by the parties.
- (c) been made in conformity with the law governing the arbitration procedure.
- (d) become final in the country in which it was made,
- (e) been in respect of a matter which may lawfully be referred to arbitration under the law of [the Provinces].

and the enforcement thereof must not be contrary to the public policy or the law of [the Provinces].

(2) A foreign award shall not be enforceable under this Act if the Court dealing with the case is satisfied that—

- (a) the award has been annulled in the country in which it was made, or
- (b) the party against whom it is sought to enforce the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case, or was under some legal incapacity and was not properly represented, or
- (c) the award does not deal with all the questions referred or contains decisions on matters beyond the scope of the agreement for arbitration:

Provided that if the award does not deal with all questions referred the Court may, if it thinks fit, either postpone the enforcement of the award or

order its enforcement subject to the giving of such security by the person seeking to enforce it as the Court may think fit.

(3) If a party seeking to resist the enforcement of a foreign award proves that there is any ground other than the non-existence of the conditions specified in clauses (a), (b) and (c) of sub-section (1), or the existence of the conditions specified in clauses (b) and (c) of sub-section (2), entitling him to contest the validity of the award, the Court may, if it thinks fit, either refuse to enforce the award or adjourn the hearing until after the expiration of such period as appears to the Court to be reasonably sufficient to enable that party to take the necessary steps to have the award annulled by the competent tribunal.

**Evidence.**

8. (1) The party seeking to enforce a foreign award must produce—

- (a) the original award or a copy thereof duly authenticated in manner required by the law of the country in which it was made;
- (b) evidence proving that the award has become final; and
- (c) such evidence as may be necessary to prove that the award is a foreign award and that the conditions mentioned in clauses (a), (b) and (c) of sub-section (1) of section 7 are satisfied.

(2) Where any document requiring to be produced under sub-section (1) is in a foreign language, the party seeking to enforce the award shall produce a translation into English certified as correct by a diplomatic or consular agent of the country to which that party belongs or certified as correct in such other manner as may be sufficient according to the law in force in <sup>1</sup>[the Provinces].

**Saving.**

9. Nothing in this Act shall—

- (a) prejudice any rights which any person would have had of enforcing in <sup>1</sup>[the Provinces] any award or of availing himself in <sup>1</sup>[the Provinces] of any award if this Act had not been passed, or
- (b) apply to any award made on an arbitration agreement governed by the law of <sup>1</sup>[the Provinces].

**Rule-making powers of the High Court.**

10. The High Court may make rules consistent with this Act as to—

- (a) the filing of foreign awards and all proceedings consequent thereon or incidental thereto;
- (b) the evidence which must be furnished by a party seeking to enforce a foreign award under this Act; and
- (c) generally, all proceedings in Court under this Act.

## THE FIRST SCHEDULE.

### PROTOCOL ON ARBITRATION CLAUSES.

The undersigned, being duly authorised, declare that they accept, on behalf of the countries which they represent, the following provisions:

<sup>1</sup> Subs. by the A.O., 1948 for "British India".

1. Each of the Contracting States recognises the validity of an agreement whether relating to existing or future differences between parties subject respectively to the jurisdiction of different Contracting States by which the parties to a contract agree to submit to arbitration all or any differences that may arise in connection with such contract relating to commercial matters or to any other matter capable of settlement by arbitration, whether or not the arbitration is to take place in a country to whose jurisdiction none of the parties is subject.

Each Contracting State reserves the right to limit the obligation mentioned above to contracts which are considered as commercial under its national law. Any Contracting State which avails itself of this right will notify the Secretary-General of the League of Nations in order that the other Contracting States may be so informed.

2. The arbitral procedure, including the constitution of the Arbitral Tribunal, shall be governed by the will of the parties and by the law of the country in whose territory the arbitration takes place.

The Contracting States agree to facilitate all steps in the procedure which require to be taken in their own territories, in accordance with the provisions of their law governing arbitral procedure applicable to existing differences.

3. Each Contracting State undertakes to ensure the execution by its authorities and in accordance with the provisions of its national laws of arbitral awards made in its own territory under the preceding articles.

4. The Tribunals of the Contracting Parties, on being seized of a dispute regarding a contract made between persons to whom Article 1 applies and including an Arbitration Agreement whether referring to present or future differences which is valid in virtue of the said article and capable of being carried into effect, shall refer the parties on the application of either of them to the decision of the Arbitrators.

Such reference shall not prejudice the competence of the judicial tribunals in case the agreement or the arbitration cannot proceed or becomes inoperative.

5. The present Protocol, which shall remain open for signature by all States, shall be ratified. The ratification shall be deposited as soon as possible with the Secretary-General of the League of Nations, who shall notify such deposit to all the Signatory States.

6. The present Protocol will come into force as soon as two ratifications have been deposited. Thereafter it will take effect, in the case of each Contracting State, one month after the notification by the Secretary-General of the deposit of its ratification.

7. The present Protocol may be denounced by any Contracting State on giving one year's notice. Denunciation shall be effected by a notification addressed to the Secretary-General of the League, who will immediately transmit copies of such notification to all the other Signatory States and inform them of the date on which it was received. The denunciation shall take effect one year after the date on which it was notified to the Secretary-General, and shall operate only in respect of the notifying State.

8. The Contracting States may declare that their acceptance of the present Protocol does not include any or all of the undermentioned territo-



ries: that is to say, their colonies, overseas possessions or territories, protectorates or the territories over which they exercise a mandate.

The said States may subsequently adhere separately on behalf of any territory thus excluded. The Secretary-General of the League of Nations shall be informed as soon as possible of such adhesions. He shall notify such adhesions to all Signatory States. They will take effect one month after the notification by the Secretary-General to all Signatory States.

The Contracting States may also denounce the Protocol separately on behalf of any of the territories referred to above. Article 7 applies to such denunciation.

## THE SECOND SCHEDULE.

### CONVENTION ON THE EXECUTION OF FOREIGN ARBITRAL AWARDS.

*Article 1.*—In the territories of any High Contracting Party to which the present Convention applies, an arbitral award made in pursuance of an agreement, whether relating to existing or future differences (hereinafter called “a submission to arbitration”) covered by the Protocol on Arbitration Clauses opened at Geneva on September 24th, 1923, shall be recognised as binding and shall be enforced in accordance with the rules of the procedure of the territory where the award is relied upon, provided that the said award has been made in a territory of one of the High Contracting Parties to which the present Convention applies and between persons who are subject to the jurisdiction of one of the High Contracting Parties.

To obtain such recognition or enforcement, it shall, further, be necessary:

- (a) That the award has been made in pursuance of a submission to arbitration which is valid under the law applicable thereto;
- (b) That the subject-matter of the award is capable of settlement by arbitration under the law of the country in which the award is sought to be relied upon;
- (c) That the award has been made by the Arbitral Tribunal provided for in the submission to arbitration or constituted in the manner agreed upon by the parties and in conformity with the law governing the arbitration procedure;
- (d) That the award has become final in the country in which it has been made, in the sense that it will not be considered as such if it is open to opposition, appel or pourvoi en cassation (in the countries where such forms of procedure exist) or if it is proved that any proceedings for the purpose of contesting the validity of the award are pending;
- (e) That the recognition or enforcement of the award is not contrary to the public policy or to the principles of the law of the country in which it is sought to be relied upon.

*Article 2.*—Even if the conditions laid down in Article 1 hereof are fulfilled, recognition and enforcement of the award shall be refused if the Court is satisfied:

- (a) That the award has been annulled in the country in which it was made;
- (b) That the party against whom it is sought to use the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case; or that, being under a legal incapacity, he was not properly represented;
- (c) That the award does not deal with the differences contemplated by or falling within the terms of the submission to arbitration or that it contains decisions on matters beyond the scope of the submission to arbitration.

If the award has not covered all the questions submitted to the arbitral tribunal, the competent authority of the country where recognition or enforcement of the award is sought can, if it thinks fit, postpone such recognition or enforcement or grant it subject to such guarantee as that authority may decide.

*Article 3.*—If the party against whom the award has been made proves that, under the law governing the arbitration procedure, there is a ground other than the grounds referred to in Article 1 (a) and (c), and Article 2 (b) and (c), entitling him to contest the validity of the award in a Court of Law, the Court may, if it thinks fit, either refuse recognition or enforcement of the award or adjourn the consideration thereof, giving such party a reasonable time within which to have the award annulled by the competent tribunal.

*Article 4.*—The party relying upon an award or claiming its enforcement must supply, in particular:

- (1) The original award or a copy thereof duly authenticated, according to the requirements of the law of the country in which it was made;
- (2) Documentary or other evidence to prove that the award has become final, in the sense defined in Article 1 (d), in the country in which it was made;
- (3) When necessary, documentary or other evidence to prove that the conditions laid down in Article 1, paragraph 1 and paragraph 2 (a) and (c), have been fulfilled.

A translation of the award and of the other documents mentioned in this Article into the official language of the country where the award is sought to be relied upon may be demanded. Such translations must be certified correct by a diplomatic or consular agent of the country to which the party who seeks to rely upon the award belongs or by a sworn translator of the country where the award is sought to be relied upon.

*Article 5.*—The provisions of the above Articles shall not deprive any interested party of the right of availing himself of an arbitral award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon.

*Article 6.*—The present Convention applies only to arbitral awards made after the coming into force of the Protocol on Arbitration Clauses, opened at Geneva on September 24th, 1923.

*Article 7.*—The present Convention, which will remain open to the signature of all the signatories of the Protocol of 1923 on Arbitration Clauses, shall be ratified.

It may be ratified only on behalf of those Members of the League of Nations and non-Member States on whose behalf the Protocol of 1923 shall have been ratified.

Ratifications shall be deposited as soon as possible with the Secretary-General of the League of Nations, who will notify such deposit to all the signatories.

*Article 8.*—The present Convention shall come into force three months after it shall have been ratified on behalf of two High Contracting Parties. Thereafter, it shall take effect, in the case of each High Contracting Party, three months after the deposit of the ratification on its behalf with the Secretary-General of the League of Nations.

*Article 9.*—The present Convention may be denounced on behalf of any Member of the League or non-Member State. Denunciation shall be notified in writing to the Secretary-General of the League of Nations, who will immediately send a copy thereof, certified to be in conformity with the notifications, to all the other Contracting Parties, at the same time informing them of the date on which he received it.

The denunciation shall come into force only in respect of the High Contracting Party which shall have notified it and one year after such notification shall have reached the Secretary-General of the League of Nations.

The denunciation of the Protocol on Arbitration Clauses shall entail, *ipso facto*, the denunciation of the present Convention.

*Article 10.*—The present Convention does not apply to the Colonies, Protectorates or territories under suzerainty or mandate of any High Contracting Party unless they are specially mentioned.

The application of this Convention to one or more of such Colonies, Protectorates or territories to which the Protocol on Arbitration Clauses opened at Geneva on September 24th. 1923, applies, can be effected at any time by means of a declaration addressed to the Secretary-General of the League of Nations by one of the High Contracting Parties.

Such declaration shall take effect three months after the deposit thereof.

The High Contracting Parties can at any time denounce the Convention for all or any of the Colonies, Protectorates or territories referred to above. Article 9 hereof applies to such denunciation.

*Article 11.*—A certified copy of the present Convention shall be transmitted by the Secretary-General of the League of Nations to every Member of the League of Nations and to every non-Member State which signs the same.

---

THE INDIAN FINANCE ACT, 1937.<sup>1</sup>

[31st March, 1937.]

An Act <sup>2\*</sup> . \* \* \* \* \* to fix rates of  
income-tax and super-tax.

WHEREAS it is expedient <sup>2\*</sup> \* \* \* \* \* to fix rates of income  
and super-tax; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Finance Act, 1937.

Short title  
and extent,

(2) It extends to <sup>3</sup>[all the Provinces of India] including <sup>4\*</sup> \* \* \* the  
Southern Parganas.

- |   |   |
|---|---|
| 2. [Fixation of salt duty]                                    | } Rep. by the Repealing and<br>Amending Act, 1942 (25<br>of 1942), s. 2 and Sch. I. |
| 3. [Amendment of s. 3, Act XIV of<br>1934.]                   |   |
| 4. [Amendment of the First Schedule<br>to Act XXXII of 1931.] |   |
| 5. [Amendment of s. 3, Act XVIII<br>of 1930.]                 |   |
| 6. [Inland Postage rates.]                                    |   |

7. (1) Income-tax for the year beginning on the 1st day of April, 1937, shall be charged at rates applicable to the total income of each assessee the same, and increased in each case by the same fraction of the amount of the rate, as for the year beginning on the 1st day of April, 1936. Income-tax  
and super-  
tax.

XI of 1922.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1937, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be the same rates, increased in each case by the same fraction of the amount of the rate, as for the year beginning on the 1st day of April, 1936.

XI of 1922.

(3) For the purposes of sub-section (1) "total income" means total income as determined in accordance with the provisions of the Indian Income-tax Act, 1922.

[THE SCHEDULE.]—Rep. by the Repealing and Amending Act, 1942 (25 of 1942), s. 2 and Sch. I.

<sup>1</sup> This Act was made by the Governor General under the provisions of s. 67B of the Govt. of India Act. No number was given.

For Statement of Objects and Reasons, see Gazette of India, 1937, Pt. V, pp. 107-108.  
This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941).

<sup>2</sup> Certain words were rep. by the Repealing and Amending Act, 1942 (25 of 1942), s. 2 and Sch. I.

<sup>3</sup> Subs. by the A. O. 1948 for "the whole of British India".

<sup>4</sup> The words "British Baluchistan and" rep. by the A. O. 1948.

# THE HINDU WOMEN'S RIGHTS TO PROPERTY ACT, 1937.

Act No. XVIII of 1937.<sup>1</sup>

[14th April, 1937.]

## An Act to amend the Hindu Law governing Hindu Women's Rights to Property.

**W**HEREAS it is expedient to amend the Hindu Law to give better rights to women in respect of property; It is hereby enacted as follows :—

**Short title and extent.** 1. (1) This Act may be called the Hindu Women's Rights to Property Act, 1937.

(2) It extends to <sup>2</sup>[all the Provinces of India] <sup>3</sup>\* \* \*

**Application.** 2. Notwithstanding any rule of Hindu Law or custom to the contrary, the provisions of section 3 shall apply where a Hindu dies intestate <sup>4</sup>\* \* \*.

**Devolution of property.** <sup>5</sup>[3. (1) When a Hindu governed by the Dayabhag School of Hindu Law dies intestate leaving any property, and when a Hindu governed by any other school of Hindu Law or by customary law dies intestate leaving separate property, his widow, or if there is more than one widow all his widows together, shall, subject to the provisions of sub-section (3), be entitled in respect of property in respect of which he dies intestate to the same share as a son.];

Provided that the widow of a predeceased son shall inherit in like manner as a son if there is no son surviving of such predeceased son, and shall inherit in like manner as a son's son if there is surviving a son or son's son of such predeceased son;

Provided further that the same provision shall apply *mutatis mutandis* to the widow of a predeceased son of a predeceased son.

(2) When a Hindu governed by any school of Hindu Law other than the Dayabhag school or by customary law dies <sup>6</sup>\* \* \* having at the time of his death an interest in a Hindu joint family property, his widow shall, subject to the provisions of sub section (3), have in the property the same interest as he himself had.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, p. 131; and for Report of Select Committee, see *ibid.*, 1937, Pt. V, p. 8.

This Act has been applied to—

1. All partially excluded areas in the Province of Orissa, see Orissa Gazette, 1938, Pt. III, p. 897.
2. Sonthal Parganas District with effect from 14-4-1937 vide Bihar Govt. Notification No. 120/A. 3/41-J, dated 14-1-1941.
3. Chota Nagpur Division with effect from 27-1-1941, vide Bihar Govt. Notification No. 122-A. 3/41-J, dated 14-1-1941.
4. Darjeeling District with effect from 28-9-1939, see Bengal Govt. Notification No. 8325-J, dated 18th September 1939, Calcutta Gazette dated 28th September 1939.

The term "property" in this Act includes Agricultural land in the Provinces of Bihar, Assam and Madras, see Bihar Act 6 of 1942, Assam Act 13 of 1943 and Madras Act 26 of 1947.

<sup>2</sup> Subs. by the A.O. 1948 for "the whole of British India".

<sup>3</sup> The words "including British Baluchistan and the Sonthal Parganas but excluding Burma" rep. by the Repealing and Amending Act, 1940 (32 of 1940), s. 3 and Sch. II.

<sup>4</sup> The words "leaving a widow" rep. by the Hindu Women's Rights to Property (Amendment) Act, 1938 (11 of 1938), s. 2 (with effect from 14-4-1937).

<sup>5</sup> Subs., *ibid.*, s. 3, for the original section.

<sup>6</sup> The word "intestate" rep., *ibid.*

(3) Any interest devolving on a Hindu widow under the provisions of this section shall be the limited interest known as a Hindu woman's estate, provided however that she shall have the same right of claiming partition as a male owner.

(4) The provisions of this section shall not apply to an estate which by a customary or other rule of succession [or by the terms of the grant applicable thereto] descends to a single heir or to any property to which the Indian Succession Act, 1925, applies.

XXXIX of  
1925.

4. Nothing in this Act shall apply to the property of any Hindu dying Savings.  
intestate before the commencement of this Act.

[5 For the purposes of this Act, a person shall be deemed to die Meaning of  
intestate in respect of all property of which he has not made a testamentary expression  
disposition which is capable of taking effect.] "die intes-  
tate."

## THE ARYA MARRIAGE VALIDATION ACT, 1937.

Act No. XIX of 1937.<sup>1</sup>

[14th April, 1937.]

An Act to recognise and remove doubts as to the validity of inter-  
marriages current among Arya Samajists.

**W**HEREAS it is expedient to recognise and place beyond doubt the  
validity of inter-marriages of a class of Hindus known as Arya  
Samajists; It is hereby enacted as follows:—

1. (1) This Act may be called the Arya Marriage Validation Act, 1937.

Short title  
and extent.

(2) It extends to [all the Provinces of India]<sup>5\*</sup> \* \*, and applies also to  
all subjects of His Majesty, within other parts of India, and to all Indian  
subjects of His Majesty without and beyond [the Provinces].

2. Notwithstanding any provision of Hindu law, usage or custom to  
the contrary no marriage contracted whether before or after the com-  
mencement of this Act between two persons being at the time of the  
marriage Arya Samajists shall be invalid or shall be deemed ever to have  
been invalid by reason only of the fact that the parties at any time be-  
longed to different castes or different sub-castes of Hindus or that either  
or both of the parties at any time before the marriage belonged to a religion  
other than Hinduism.

Marriage  
between  
Arya  
Samajists  
not to be  
invalid.

<sup>1</sup> Ins., by the Hindu Women's Rights to Property (Amendment) Act, 1938 (11 of 1938), s. 2 (with effect from 14-1-1937).

<sup>2</sup> Ins., *ibid.* s. 4.

<sup>3</sup> For Statement of Objects and Reasons see Gazette of India, 1935, Pt. V, p. 132; and for Report of Select Committee, see *ibid.*, 1936, Pt. V, p. 306.

This Act has been applied to the Chota Nagpur Division and to the Santhal Parganas District vide Bihar Govt. Notification No. 121-A, 3/41-J, dated 14th January 1941.

<sup>4</sup> Subs. by the A. O. 1948 for "the whole of British India".

<sup>5</sup> The words "including British Baluchistan and the Santhal Parganas" rep. by the Repealing and Amending Act, 1940 (82 of 1940), s. 8 and Sch. II.

<sup>6</sup> Subs. by the A. O. 1948 for "British India".

## THE PETROLEUM (BERAR EXTENSION) ACT, 1937.

<sup>1</sup>Act No. XXIII of 1937.

[7th October, 1937.]

## An Act to extend the Petroleum Act, 1934, to Berar.

**W**HEREAS in Berar the importation, possession and transport of petroleum and other substances are regulated by the Indian Petroleum Act, 1899, as applied to Berar by order made under the Indian (Foreign Jurisdiction) Order in Council, 1902;

AND WHEREAS the Indian Petroleum Act, 1899, was repealed in <sup>2</sup>[the VIII of 1899, Provinces] by, and was replaced by, the Petroleum Act, 1934, by which Act XXX of the import, transport, storage, production, refining and blending of petroleum and other inflammable substances are now regulated in <sup>3</sup>[all the Provinces of India] except Berar,

AND WHEREAS it is expedient that the Indian Petroleum Act, 1899, in VIII of 1899 its application to Berar should be repealed and that the Petroleum Act, XXX of 1934, should be extended to Berar,

It is hereby enacted as follows:—

## Short title.

1. This Act may be called the Petroleum (Berar Extension) Act, 1937.

Repeal in  
Berar of Act  
VIII of 1899  
and extension  
of Act  
XXX of  
1934.

2. The Indian Petroleum Act, 1899 as in force in Berar, is hereby VIII of 1899 repealed, and the Petroleum Act, 1934, is hereby extended to and declared XXX of 1934. to be in force in Berar.

Operation of  
rules.

3. Rules made and notifications issued under the Petroleum Act, XXX of 1934, and in force in <sup>2</sup>[the Provinces] at the commencement of this Act are hereby extended to and declared to be in force in Berar.

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1937, Pt. V, p. 182.

This Act has been applied to partially excluded areas in the Province of Orissa, see Orissa Gazette, Pt. III, dated 17th June 1938.

<sup>2</sup> Subs. by the A. O. 1948 for "British India".

<sup>3</sup> Subs. by the A. O. 1948 for "the whole of British India".

## THE RULES AND REGULATIONS CONTINUANCE ACT, 1937.

<sup>1</sup>Act No. XXIV of 1937.

[7th October, 1937.]

**An Act to provide for the continuance in force of certain rules and regulations.**

**IX of 1910.**  
**V of 1923.**

**W**HEREAS it is expedient to provide for the continuance in force of certain rules made under the Indian Electricity Act, 1910, and certain regulations made under the Indian Boilers Act, 1923; It is hereby enacted as follows:—

1. This Act may be called the Rules and Regulations Continuance Act, 1937. **Short title.**

**IX of 1910.**  
**V of 1923.**

2. Rules made before the 31st day of March, 1937, under section 37 of the Indian Electricity Act, 1910, and regulations made before the 28th day of March, 1937, under section 28 of the Indian Boilers Act, 1923, by the Governor General in Council shall, on and from the said dates respectively, be deemed to have been made under the said sections of the said Acts by the authority substituted for the Governor General in Council by the Indian Electricity (Amendment) Act, 1935, and the Indian Boilers (Amendment) Act, 1937, respectively, and shall continue to be in force until superseded by rules or regulations made under the said sections of the said Acts by the Central Electricity Board or the Central Boilers Board, as the case may be. **Continuance in force of rules and regulations made under Act IX of 1910 and Act V of 1923.**

**X of 1937.**  
**XI of 1937.**

## THE FEDERAL COURT ACT, 1937.

Act No. XXV of 1937.<sup>1</sup>

[7th October, 1937.]

**An Act to empower the Federal Court to make rules for regulating the service of processes issued by the Court.**

**W**HEREAS it is expedient to confer upon the Federal Court a supplemental power which is necessary for the purpose of enabling the Court more effectively to exercise the jurisdiction conferred upon it by or under the Government of India Act, 1935; It is hereby enacted as follows:—

1. This Act may be called the Federal Court Act, 1937.

**Short title.**

2. The Federal Court may make rules for regulating the service of processes issued by the Court, including rules requiring a High Court from which an appeal has been preferred to the Federal Court to serve any process issued by the Federal Court in connection with that appeal. **Power of Federal Court to make rules.**

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1937, Pt. V, p. 130.  
For limited application of the Act to certain partially excluded areas in Orissa, see Orissa Gazette, 1938, Pt. III, p. 813.

<sup>2</sup> For Statement of Objects and Reasons, see Gazette of India, 1937, Pt. V, p. 131.  
This Act has been applied to the Sonthal Parganas District and the Chota Nagpur Division, see Bihar Govt. notification No. 1088/A-15/40-JR, dated 31st August 1940.



# THE MUSLIM PERSONAL LAW (SHARIAT) APPLICATION ACT, 1937.

Act No. XXVI of 1937.<sup>1</sup>

[7th October, 1937.]

An Act to make provision for the application of the Muslim Personal Law (*Shariat*) to Muslims in [the Provinces of India].

**W**HEREAS it is expedient to make provision for the application of the Muslim Personal Law (*Shariat*) to Muslims in [the Provinces of India];

It is hereby enacted as follows:—

Short title and extent.

1. (1) This Act may be called the Muslim Personal Law (*Shariat*) Application Act, 1937.

(2) It extends to [all the Provinces of India] \* \* \* \*.

Application of Personal Law to Muslims.

2. Notwithstanding any customs or usage to the contrary, in all questions (save questions relating to agricultural land) regarding intestate succession, special property of females, including personal property inherited or obtained under contract or gift or any other provision of Personal Law, marriage, dissolution of marriage, including *talaq*, *ila*, *zihar*, *lian*, *khula* and *mubaraat*, maintenance, dower, guardianship, gifts, trusts and trust properties, and *wakfs* (other than charities and charitable institutions and charitable and religious endowments) the rule of decision in cases where the parties are Muslims shall be the Muslim Personal Law (*Shariat*).

Power to make a declaration.

3. (1) Any person who satisfies the prescribed authority—

(a) that he is a Muslim, and

(b) that he is competent to contract within the meaning of section 11 of the Indian Contract Act, 1872, and

(c) that he is a resident of [a Province of India],

IX of 1872

may by declaration in the prescribed form and filed before the prescribed authority declare that he desires to obtain the benefit of [the provisions of this section], and thereafter the provisions of section 2 shall apply to the declarant and all his minor children and their descendants as if in addition to the matters enumerated therein adoption, wills and legacies were also specified.

(2) Where the prescribed authority refuses to accept a declaration under sub-section (1), the person desiring to make the same may appeal to such officer as the Provincial Government may, by general or special order, appoint in this behalf, and such officer may, if he is satisfied that

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, p. 136; and for Report of Select Committee, see *ibid*, 1937, Pt. V, p. 235.

This Act has been applied to the—

(1) Partially excluded areas in the Province of Orissa, see Orissa Gazette, 1938, Pt. III, p. 897.

(2) Sonthal Parganas District and the Chota Nagpur Division, see Bihar Govt. notification No. 1088/A-15/40-JR., dated 31st August 1940.

(3) Darjeeling District (with effect from 20-1-1944), see Bengal Govt. notification No. 181-J, dated 15th January, 1944.

<sup>2</sup> Subs. by the A. O. 1948 for "British India".

<sup>3</sup> Subs. by the A. O. 1948 for "the whole of British India".

<sup>4</sup> The words "excluding the North-West Frontier Province" rep. by the A. O. 1948.

<sup>5</sup> Subs. by the Muslim Personal Law (*Shariat*) Application (Amendment) Act, 1948 (16 of 1948), s. 2.

the appellant is entitled to make the declaration, order the prescribed authority to accept the same.

4. (1) The Provincial Government may make rules to carry into effect the purposes of this Act. Rule-making power.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) for prescribing the authority before whom and the form in which declarations under this Act shall be made;

(b) for prescribing the fees to be paid for the filing of declarations and for the attendance at private residences of any person in the discharge of his duties under this Act; and for prescribing the times at which such fees shall be payable and the manner in which they shall be levied.

(3) Rules made under the provisions of this section shall be published in the Official Gazette and shall thereupon have effect as if enacted in this Act.

5. [*Dissolution of marriage by Court in certain circumstances.*] *Rep. by the Dissolution of Muslim Marriage Act, 1939 (8 of 1939), s. 6.*

6. [The undermentioned provisions] of the Acts and Regulations mentioned below shall be repealed in so far as they are inconsistent with the provisions of this Act, namely:— Repeals.

(1) Section 26 of the Bombay Regulation IV of 1827;

(2) Section 16 of the Madras Civil Courts Act, 1873;

2\* \* \* \* \*

(4) Section 3 of the Oudh Laws Act, 1876;

(5) Section 5 of the Punjab Laws Act, 1872;

(6) Section 5 of the Central Provinces Laws Act, 1875; and

(7) Section 4 of the Ajmere Laws Regulation, 1877.

III of 1873.

XVIII of 1876.

IV of 1872.

XX of 1875.

Reg. III of 1877.

## THE INSURANCE ACT, 1938.

### CONTENTS

#### PART I.

#### PRELIMINARY.

#### SECTIONS.

1. Short title, extent and commencement.

2. Definitions.

<sup>1</sup> Subs. by the Muslim Personal Law (Shariat) Application (Amendment) Act, 1963 (16 of 1963), s. 3.

<sup>2</sup> The words, figures and brackets "(3) Section 37 of the Bengal, Agra and Assam Civil Courts Act, 1887" rep., *ibid.* This repeal has the effect of reviving the operation of s. 37 of Act 12 of 1887, see s. 3(b), *ibid.*

## PART II.

## PROVISIONS APPLICABLE TO INSURERS.

## SECTIONS.

- 2A. Insurers to be subject to this Act while liabilities remain unsatisfied.
- 2B. This Act not to apply to certain insurers ceasing to enter into new contracts before commencement of Act.
3. Registration.
- 3A. Renewal of Registration.
- 3B. Certification of soundness of terms of life insurance business.
4. Minimum limits for annuities and other benefits secured by policies of life insurance.
5. Restriction on name of insurer.
6. Requirements as to capital.
7. Deposits.
8. Reservation of deposits.
9. Refund of deposits.
10. Separation of accounts and funds.
11. Accounts and balance-sheet.
12. Audit.
13. Actuarial report and abstract.
14. Register of policies and register of claims.
15. Submission of returns.
16. Returns by insurers established outside the Provinces.
17. Exemption from certain provisions of the Indian Companies Act, 1913.
- 17A. This Act not to apply to preparation of accounts, etc., for periods prior to this Act coming into force.
18. Furnishing reports.
19. Abstract of proceedings of general meetings.
20. Custody and inspection of documents and supply of copies.
21. Powers of Superintendent of Insurance regarding returns.
22. Power of Superintendent of Insurance to order revaluation.
23. Evidence of documents.
24. [Omitted.]
25. Returns to be published in statutory forms.
26. Alterations in the particulars furnished with application for registration to be reported.

## INVESTMENT, LOANS AND MANAGEMENT.

27. Investment of assets and restriction on loans.
28. Statement of investments of assets.

## SECTIONS.

- 29. Prohibition of loans.
- 30. Liability of directors, etc., for loss due to contraventions of sections 27 and 29.
- 31. Assets of insurer how to be kept.
- 32. Limitation on employment of managing agents and on the remuneration payable to them.

## INVESTIGATION.

- 33. Power of Superintendent of Insurance to order investigation.
- 34. Powers of investigator.

## AMALGAMATION AND TRANSFER OF INSURANCE BUSINESS.

- 35. Amalgamation and transfer of insurance business.
- 36. Sanction of amalgamation and transfer by Court.
- 37. Statements required after amalgamation and transfer.

## ASSIGNMENT OR TRANSFER OF POLICIES AND NOMINATIONS.

- 38. Assignment and transfer of insurance policies.
- 39. Nomination by policy-holder.

## COMMISSION AND REBATES AND LICENSING OF AGENTS.

- 40. Prohibition of payment by way of commission or otherwise for procuring business.
- 41. Prohibition of rebates.
- 42. Licensing of insurance agents.
- 43. Register of insurance agents.
- 44. Prohibition of cessation of payments of commission.

## SPECIAL PROVISIONS OF LAW.

- 45. Policy not to be called in question on ground of mis-statement after two years.
- 46. Application of the law in force in the Provinces to policies issued in the Provinces.
- 47. Payment of money into Court.
- 48. Directors of insurers being companies.
- 48A. Life Insurance agents not to be directors of life insurance companies.
- 49. Restriction on dividends and bonuses.
- 50. Notice of options available to the assured on the lapsing of a policy.
- 51. Supply of copies of proposals and medical reports.
- 52. Prohibition of business on dividing principle.

## WINDING UP.

## SECTIONS.

- 53. Winding up by the Court.
- 53A. Unpaid-up share capital.
- 54. Voluntary winding up.
- 55. Valuation of liabilities.
- 56. Application of surplus assets of life insurance fund in liquidation or insolvency.
- 57. Winding up of secondary companies.
- 58. Schemes for partial winding up of insurance companies.
- 59. Return of deposits.
- 60. Notice of policy values.
- 61. Power of Court to reduce contracts of insurance.

## SPECIAL PROVISIONS RELATING TO EXTERNAL COMPANIES.

- 62. Power of Central Government to impose reciprocal disabilities on non-Indian companies.
- 63. Particulars to be filed by insurers established outside the Provinces.
- 64. Books to be kept by insurers established outside the Provinces.

---

PART III.

## PROVIDENT SOCIETIES.

- 65. Definition of "provident society".
- 66. Restrictions on provident societies.
- 67. Name.
- 68. Insurable interest.
- 69. Dividing business.
- 70. Registration
- 70A. Renewal of registration.
- 70B. Supplementary information and reports of alterations in particulars furnished with application for registration.
- 71. Certain provisions of Part II to apply to provident societies.
- 72. Working capital.
- 73. Deposits.
- 73A. Restriction on name of provident society.
- 74. Rules.
- 75. Amendment of rules.
- 76. Supply of copy of rules.
- 77. Registered office.

## SECTIONS.

78. Publication of authorised capital to contain also subscribed and paid up capital.
  79. Registers and books.
  80. Revenue account, balance-sheet and annual statements.
  81. Actuarial report and abstract.
  82. Submission of returns to Superintendent of Insurance.
  83. Actuarial examination of schemes.
  84. Separation of accounts and funds.
  85. Investment of funds.
  86. Inspection of books.
  87. Inquiry by or on behalf of Superintendent of Insurance.
  - 87A. Amalgamation and transfer of insurance business.
  88. Winding up by Court and voluntary winding up.
  89. Reduction of insurance contracts.
  90. Appointment of liquidator.
  - 90A. Application of Act to liquidators.
  91. Powers of liquidator.
  92. Procedure at liquidation.
  93. Dissolution of provident society.
  94. Nominations and assignments.
- 

## PART IV.

MUTUAL INSURANCE COMPANIES AND CO-OPERATIVE LIFE INSURANCE  
SOCIETIES.

95. Definitions.
96. Application of Act to Mutual Insurance Companies and Co-operative Life Insurance Societies.
97. Working capital of Mutual Insurance Companies and Co-operative Life Insurance Societies.
98. Deposits to be made by Mutual Insurance Companies and Co-operative Life Insurance Societies.
- 98A. Prohibition of loans.
99. Transferees and assignees of policies not to become members.
100. Publication of notices and documents of Mutual Insurance Companies and Co-operative Life Insurance Societies.
101. Supply of documents to members.

## PART V.

## MISCELLANEOUS.

## SECTIONS.

102. Penalty for default in complying with, or act in contravention of, this Act.
103. Penalty for transacting insurance business in contravention of sections 3, 7 and 98.
104. Penalty for false statement in document.
105. Wrongfully obtaining or withholding property.
106. Wrongfully diminishing life insurance fund.
- 106A. Notice to and hearing of Superintendent of Insurance.
107. Previous sanction of Advocate General for institution of proceedings.
108. Power of Court to grant relief.
109. Cognizance of offences.
110. Appeals.
- 110A. Delegation of powers and duties of Superintendent of Insurance.
- 110B. Signature of documents.
111. Service of notices.
112. Declaration of *interim* bonuses.
113. Acquisition of surrender values by policy.
114. Power of Central Government to make rules.
115. Alteration of forms.
116. Power to exempt from certain requirements.
- 116A. Summary of returns to be published.
117. Saving of provisions of Indian Companies Act, 1913.
118. Exemptions.
119. Inspection and supply of copies of published prospectus, etc.
120. Determination of market value of securities deposited under this Act.
121. Amendment of section 130, Act IV of 1882.
122. Amendment of Schedule I, Act IX of 1908.
123. Repeals.

---

THE FIRST SCHEDULE.—Regulations and Forms for the preparation of Balance-Sheet.

THE SECOND SCHEDULE.—Regulations and Forms for the preparation of Profit and Loss Accounts.

THE THIRD SCHEDULE.—Regulations and Forms for the preparation of Revenue Accounts.

THE FOURTH SCHEDULE.—Regulations for the preparation of Abstracts

## Part I.—Preliminary.

of Actuaries' Reports and Requirements applicable to such Abstracts.

THE FIFTH SCHEDULE.—Regulations for preparing statements of business in force and requirements applicable to such statements.

THE SIXTH SCHEDULE.—Rule as to the valuation of the Liabilities of an Insurer in Insolvency or Liquidation.

Act No. IV of 1938.<sup>1</sup>

[26th February, 1938.]

## An Act to consolidate and amend the law relating to the business of insurance .

**W**HEREAS it is expedient to consolidate and amend the law relating to the business of insurance; It is hereby enacted as follows:—

## PART I.

## PRELIMINARY.

1. (1) This Act may be called the Insurance Act, 1938.

(2) It extends to <sup>2</sup>[all the Provinces of India].

(3) It shall come into force on such date<sup>3</sup> as the Central Government may, by notification in the official Gazette, appoint in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "actuary" means an actuary possessing such qualifications as may be prescribed;

<sup>4</sup>[(2) "policy-holder" includes a person to whom the whole of the interest of the policy-holder in the policy is assigned once and for all, but does not include an assignee thereof whose interest in the policy is defeasible or is for the time being subject to any condition;]

<sup>1</sup> For Statement of Objects and Reasons see Gazette of India, 1937, Pt. V, p. 63; and for Report of Select Committee, see *ibid*, p. 144.

This Act has been applied to—

(1) the partially excluded areas in the District of Darjeeling, see Bengal Government Notification No. 1902-Com., dated 28th June, 1939, Calcutta Gazette, dated 16th July, 1939.

(2) the partially excluded areas in the Province of Orissa with effect from the 14th October, 1939, see the Orissa Laws Validating Regulation, 1943 (Orissa Regulation I of 1943).

<sup>2</sup> Subs. by the A. O. 1948 for "the whole of British India".

<sup>3</sup> The 1st July, 1939, see Notification No. 589-I(4) 38, dated the 1st April, 1939, Gazette of India 1939, Pt. I, p. 631.

<sup>4</sup> Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 2.

Short title,  
extent and  
commence-  
ment.

Definitions.



## (Part I.—Preliminary.)

- (3) "approved securities" means Government securities, and any other security charged on the revenues of the Central Government or of a Provincial Government, or guaranteed fully as regards principal and interest by the Secretary of State in Council or the Secretary of State or the Central Government or a Provincial Government; and any debenture or other security for money issued under the authority of <sup>1</sup>[any Central Act or Act of a Legislature established in <sup>2</sup>a province] by or on behalf of a port trust or municipal corporation or city improvement trust in any Presidency-town, or by or on behalf of the trustees of the port of Karachi <sup>3</sup>[and any security issued by the Government of an <sup>4</sup>Acceding State or other Indian State] and specified as an approved security for the purposes of this Act by the Central Government by notification in the official Gazette];
- (4) "auditor" means a person qualified under the provisions of section 141 of the Indian Companies Act, 1913, to act as an auditor of companies; VII of 1913,
- (5) "certified" in relation to any copy or translation of a document required to be furnished by or on behalf of <sup>5</sup>[an insurer or a provident society as defined in Part III] means certified by a principal officer of <sup>6</sup>[such insurer or provident society] to be a true copy or a correct translation, as the case may be;
- (6) "Court" means the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction;
- (7) "Government securities" means Government securities as defined in the Indian Securities Act, 1920; X of 1920,
- (8) "insurance company" means any insurer being a company, association or partnership which may be wound up under the Indian Companies Act, 1913, or to which the Indian Partnership Act, 1932, applies, VII of 1913,  
IX of 1932,
- (9) "insurer" means—
- (a) any individual or unincorporated body of individuals or body corporate incorporated under the law of any country <sup>7</sup>[or State outside the Provinces of India] carrying on insurance business (not being a person specified in sub-clause (c) of this clause) which—
- (i) carries on that business in <sup>2</sup>[the Provinces] or
- (ii) has his or its principal place of business or is domiciled in <sup>2</sup>[the Provinces];
- <sup>3</sup>[or

<sup>1</sup> Subs. by the A. O. 1948 for "any Act".<sup>2</sup> Subs. by the A. O. 1948 for "British India".<sup>3</sup> Ins. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 2.<sup>4</sup> Subs. by the A. O. 1948 for "Indian State".<sup>5</sup> Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 2 for "an insurer".<sup>6</sup> Subs., *ibid.* for "the insurer".<sup>7</sup> Subs. by the A. O. 1948 for "other than British India".<sup>8</sup> Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 2.

## (Part I.—Preliminary.)

- (iii) with the object of obtaining insurance business, employs a representative, or maintains a place of business, in <sup>1</sup>[the Provinces]];
- (b) any body corporate (not being a person specified in sub-clause (c) of this clause) carrying on the business of insurance, which is a body corporate incorporated under any law for the time being in force in <sup>1</sup>[the Provinces]; or stands to any such body corporate in the relation of a subsidiary company within the meaning of the Indian Companies Act, 1913, as defined by sub-section (2) of section 2 of that Act, and
- (c) any person who in <sup>1</sup>[the Provinces] has a standing contract with underwriters who are members of the Society of Lloyd's whereby such person is authorised within the terms of such contract to issue protection notes, cover notes, or other documents granting insurance cover to others on behalf of the underwriters.
- but does not include an insurance agent licensed under 42 or a provident society <sup>2</sup>[as defined in Part III];
- (10) "insurance agent" means an insurance agent licensed under section 42 being an individual who receives or agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business;
- (11) "life insurance business" includes annuity business, that is to say, the business of effecting contracts of insurance for the granting of annuities on human life and, if so provided in the contract of insurance, disability and double <sup>3</sup>[or triple] indemnity accident benefits;
- (12) "manager" and "officer" have the meanings assigned to those expressions in clauses (9) and (11) respectively of section 2 of the Indian Companies Act, 1913;
- (13) "managing agent" means a person, firm or company entitled to the management of the whole affairs of a company by virtue of an agreement with the company, and under the control and direction of the directors except to the extent, if any, otherwise provided for in the agreement, and includes any person, firm or company occupying such position by whatever name called.

*Explanation.*—If a person occupying the position of managing agent calls himself manager or managing director, he shall nevertheless be regarded as managing agent for the purposes of section 32 of this Act;

<sup>1</sup> Subs. by the A. O. 1948 for "British India".

<sup>2</sup> Subs. for "to which the provisions of Part III apply" by s. 2 of the Insurance (Amendment) Act, 1911 (13 of 1941).

<sup>3</sup> Ins. by s. 2 of the Insurance (Amendment) Act, 1939 (11 of 1939).

## (Part I.—Preliminary. Part II.—Provisions applicable to Insurers.)

- (14) "prescribed" means prescribed by rules made under section 114; and
- (15) "Superintendent of Insurance" means the officer, who shall <sup>1</sup>[after the 31st day of December, 1953] be a qualified actuary, appointed by the Central Government to perform the duties of the Superintendent of Insurance under this Act.

## PART II.

## PROVISIONS APPLICABLE TO INSURERS.

Insurers to be subject to this Act while liabilities remain unsatisfied.

<sup>2</sup>[2A. Every insurer shall be subject to all the provisions of this Act in relation to any class of insurance business so long as his liabilities in <sup>3</sup>[the Provinces of India] in respect of business of that class remain unsatisfied or not otherwise provided for.

This Act not to apply to certain insurers ceasing to enter into new contracts before commencement of Act.

2B. The provisions of this Act shall not apply to an insurer as defined in paragraph (i) or (iii) of sub-clause (a) of clause (9) of section 2 in relation to any class of his insurance business where such insurer has ceased, before the commencement of this Act, to enter into any new contracts of that class of business.]

Registration.

3. (1) No <sup>4</sup>[person] shall, after the commencement of this Act, begin to carry on any class of insurance business in <sup>5</sup>[the Provinces], and no insurer carrying on any class of insurance business in <sup>6</sup>[the Provinces] shall, after the expiry of three months from the commencement of this Act, continue to carry on any such business, unless he has obtained from the Superintendent of Insurance a certificate of registration <sup>7</sup>[for the particular class of insurance business]:

<sup>8</sup>[Provided that in the case of an insurer who was carrying on any class of insurance business in <sup>9</sup>[the Provinces] at the commencement of this Act, failure to obtain a certificate of registration in accordance with the requirements of this sub-section shall not operate to invalidate any contract of insurance entered into by him if before <sup>10</sup>[such <sup>11</sup>date as may be fixed in this behalf by the Central Government by notification in the official Gazette], he has obtained that certificate.]

(2) Every application for registration shall be accompanied by—

(a) a certified copy of the memorandum and articles of association,

<sup>1</sup> Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 2.

<sup>2</sup> Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 2A.

<sup>3</sup> Subs. by the A. O. 1948 for "British India".

<sup>4</sup> Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 3 for "insurer".

<sup>5</sup> Ins. by Act 6 of 1946, s. 3.

<sup>6</sup> Ins. by Act 20 of 1940, s. 3 (with retrospective effect).

<sup>7</sup> Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 3 for "the expiry of one month from the commencement of the Insurance (Amendment) Act, 1940".

<sup>8</sup> 1st August, 1942, for all insurers in the Provinces of India excepting those in Madras and Mysore States, see notification No. 530-I (12)/42, dated 11th July, 1942, Gazette of India, 1942, Pt. I, p. 1163.

## (Part II.—Provisions applicable to Insurers.)

VII of 1913.  
VI of 1932.  
X of 1936.

- where the applicant is a company and incorporated under the Indian Companies Act, 1913 <sup>1</sup>[or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby,] or, in the case of any other insurer specified in sub-clause (a) (i) or sub-clause (b) of clause (9) of section 2, a certified copy of the deed of partnership or of the deed of constitution of the company, as the case may be, or, in the case of an insurer having his principal place of business or domicile outside <sup>2</sup>[the Provinces], the document specified in clause (a) of section 63;
- (b) the name, address and the occupation, if any, of the directors where the insurer is a company incorporated under the Indian Companies Act, 1913, <sup>1</sup>[or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby,] and in the case of an insurer specified in sub-clause (a) (ii) of clause (9) of section 2 the names and addresses of the proprietors and of the manager in <sup>2</sup>[the Provinces], and in any other case the full address of the principal office of the insurer in <sup>2</sup>[the Provinces], and the names of the directors and the manager at such office and the name and address of some one or more persons resident in <sup>2</sup>[the Provinces] authorised to accept any notice required to be served on the insurer;
- (c) a statement of the class or classes of insurance business done or to be done, and a statement that the amount required to be deposited by section 7 or section 98 before application for registration is made has been deposited together with a certificate from the Reserve Bank of India showing the amount deposited;
- (d) where the provisions of section 6 or section 97 apply, a declaration verified by an affidavit made by the principal officer of the insurer authorised in that behalf that the provisions of those sections as to working capital have been complied with;
- (e) in the case of an insurer having his principal place of business or domicile outside <sup>3</sup>[India], a statement verified by an affidavit made by the principal officer of the insurer setting forth the requirements (if any) not applicable to nationals of the country in which such insurer is constituted, incorporated or domiciled which are imposed by the laws or practice of that country upon Indian nationals as a condition of carrying on insurance business in that country;
- (f) a certified copy of the published prospectus, if any, and of the standard policy forms of the insurer and statements of the assured rates, advantages, terms and conditions to be offered

<sup>1</sup> Ins. by the Insurance (Second Amendment) Act, 1939 (41 of 1939), s. 2.

<sup>2</sup> Subs. by the A. O. 1948 for "British India".

<sup>3</sup> Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 3, for "British India".

*(Part II.—Provisions applicable to Insurers.)*

in connection with insurance policies together with a certificate in connection with life insurance business by an actuary that such rates, advantages, terms and conditions are workable and sound:

Provided that in the case of marine, accident and miscellaneous insurance business other than workmen's compensation and motor car insurance the above requirements regarding prospectus, forms and statements shall be complied with only in so far as the prospectus, forms and statements may be available; and

(g) the <sup>1</sup>[receipt showing payment in the prescribed manner of the prescribed fee which shall not be] more than <sup>2</sup>[five] hundred rupees for each class of business.

(3) In the case of any insurer having his principal place of business or domicile outside <sup>3</sup>[India], the Superintendent of Insurance shall withhold registration or shall cancel a registration already made, if he is satisfied that in the country in which such insurer has his principal place of business or domicile Indian nationals are debarred by the law or practice of the country relating to, or applied to insurance from carrying on the business of insurance, or that any requirement imposed on such insurer under the provisions of section 62 is not satisfied.

<sup>4</sup>[(4) The Superintendent of Insurance shall cancel the registration of an insurer either wholly or in so far as it relates to a particular class of insurance business, as the case may be, —

(a) if the insurer fails to comply with the provisions of section 7 or section 98 as to deposits, or

(b) if the insurer is in liquidation or is adjudged an insolvent, or

(c) if the business or a class of the business of the insurer has been transferred to any person or has been transferred to or amalgamated with the business of any other insurer, or

(d) if the whole of the deposit made in respect of a class of insurance business has been returned to the insurer under section 9;]  
<sup>5</sup>[or]

<sup>6</sup>[(e) if, in the case of an insurer specified in sub-clause (c) of clause (9) of section 2, the standing contract referred to in that sub-clause is cancelled or is suspended and continues to be suspended for a period of six months,

and the Superintendent of Insurance <sup>6</sup>[may cancel the registration of an insurer —

<sup>1</sup> Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 3, for "prescribed fee for registration being not".

<sup>2</sup> Subs. by the Insurance (Amendment) Act, 1941 (18 of 1941), s. 3 for "one".

<sup>3</sup> Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 3 for "British India".

<sup>4</sup> Subs., *ibid* (with retrospective effect).

<sup>5</sup> Ins. by the Insurance (Amendment) Act, 1941 (18 of 1941), s. 3.

<sup>6</sup> Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 3, for "may cancel the registration of an insurer if the insurer has failed to have the registration renewed",

*(Part II.—Provisions applicable to Insurers.)*

- (f) if the insurer has failed to have the registration renewed, or  
 (g) if the Superintendent of Insurance has reason to believe that any claim upon the insurer arising in India under any policy of insurance remains unpaid for three months after final judgment in regular course of law, or  
 (h) if the insurer fails to comply with an order under section 3B.]]

(5) When the Superintendent of Insurance withholds or cancels any registration under sub-section (3) or <sup>1</sup>[clause (a), clause (c), clause (f), clause (g) or clause (h) of sub-section (4),] he shall give notice in writing to the insurer of his decision, and the decision shall take effect on such date as he may specify in that behalf in the notice, such date not being less than one month nor more than two months from the date of the receipt of the notice in the ordinary course of transmission.

<sup>2</sup>[(5A) When the Superintendent of Insurance cancels any registration under clause (b), clause (c) or clause (d) of sub-section (4) the cancellation shall take effect on the date on which notice of the order of cancellation is served on the insurer.

(5B) When a registration is cancelled the insurer shall not, after the cancellation has taken effect, enter into any new contracts of insurance, but all rights and liabilities in respect of contracts of insurance entered into by him before such cancellation takes effect shall, subject to the provisions of sub-section (5D), continue as if the cancellation had not taken place.

(5C) Where a registration is cancelled under <sup>3</sup>[clause (a), clause (c), clause (f), clause (g) or clause (h) of sub-section (4),] the Superintendent of Insurance may at his discretion revive the registration, if the insurer within six months from the date on which the cancellation took effect makes the deposits required by section 7 or section 98, <sup>4</sup>[or has his standing contract restored or has had an application under sub-section (1) of section 3A accepted], <sup>5</sup>[or satisfies the Superintendent of Insurance that no claim upon him such as is referred to in clause (g) of sub-section (4) remains unpaid or that he has complied with the order under section 3B,] as the case may be, and complies with any directions which may be given to him by the Superintendent of Insurance.

(5D) Where <sup>6</sup>[the registration of an insurance company is cancelled under sub-section (4), the Superintendent of Insurance may,] after the expiry of six months from the date on which the cancellation took effect, apply to the Court for an order to wind up the insurance company, or to wind up the affairs of the company in respect of a class of insurance business,

<sup>1</sup> Subs. by Act 6 of 1946, s. 3, for "clause (a) of sub-section (4)" subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 3 for the original words "sub-section (4)" and for "clause (c) of sub-section (4), or because the insurer has failed to have the registration renewed" ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 3.

<sup>2</sup> Sub-sections 5A to 5D ins. by Act 20 of 1940, s. 3 (with retrospective effect).

<sup>3</sup> Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 3, for "clause (a) of sub-section (4)", and for "clause (c) of sub-section (4), or because the insurer has failed to have his registration renewed" ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 3.

<sup>4</sup> Ins. by Act 13 of 1941, s. 3.

<sup>5</sup> Ins. by Act 6 of 1946, s. 3.

<sup>6</sup> Subs., *ibid*, for "a registration is cancelled under sub-section (4) and the insurer is a company incorporated under the Indian Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1886, or under any Act repealed thereby, the Superintendent of Insurance shall, as soon as may be",

## (Part II.—Provisions applicable to Insurers.)

unless the registration of the insurance company has been revived under sub-section (5C) or an application for winding up the company has been already presented to the Court. The Court may proceed as if an application under this sub-section were an application under sub-section (2) of section 53, or sub-section (1) of section 58, as the case may be.]

(6) <sup>1</sup>[Subject to compliance with the provisions of sections 5, 10 and 32 and of any order made under section 3B, the Superintendent of Insurance] shall, on being satisfied that the applicant has fulfilled all the requirements of <sup>2</sup>[this section] applicable to him, <sup>3</sup>[register the insurer and grant him] a certificate of registration.

<sup>4</sup>[(7) The Superintendent of Insurance may, on payment of the prescribed fee which shall not exceed twenty-five rupees, issue a duplicate certificate of registration to replace a certificate lost, destroyed or mutilated. or in any other case where he is of opinion that the issue of a duplicate certificate is necessary.]

**Renewal of  
Registration**

<sup>5</sup>[3A. (1) An insurer who has been granted a certificate of registration under section 3 shall have the registration renewed annually for each year after that ending on the 31st day of December, 1941.

(2) An application for the renewal of a registration for any year shall be made by the insurer to the Superintendent of Insurance before the 31st day of December of the preceding year, and shall be accompanied as provided in sub-section (3) by evidence of payment of the prescribed fee which shall not exceed one thousand rupees for each class of insurance business, but may vary according to the volume of business done by the insurer in India in each class of insurance business to which the registration relates.

(3) The prescribed fee for the renewal of a registration for any year shall be paid into the Reserve Bank of India, or, where there is no office of that Bank, into the Imperial Bank of India acting as the agent of that Bank, or into any Government treasury, and the receipt shall be sent along with the application for renewal of the registration.

(4) If an insurer fails to apply for renewal of registration before the date specified in sub-section (2) the Superintendent of Insurance may, so long as an application to the Court under sub-section (5D) of section 3 has not been made, accept an application for renewal of the registration on receipt from the insurer of the fee payable with the application and such penalty, not exceeding the prescribed fee payable by him, as the Superintendent of Insurance may require :

Provided that an appeal shall lie to the Central Government from an order passed by the Superintendent of Insurance imposing a penalty on the insurer.

(5) The Superintendent of Insurance shall, on fulfilment by the insurer of the requirements of this section, renew the registration and grant him a certificate of renewal of registration.]

<sup>1</sup> Subs., by s. 3 of the Insurance (Amendment) Act, 1946 (6 of 1946) for "The Superintendent of Insurance".

<sup>2</sup> Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 3 for "the Act".

<sup>3</sup> Subs., *ibid.*, for "grant the insurer".

<sup>4</sup> Ins. by Act 6, of 1946, s. 3.

<sup>5</sup> Ins. by the Insurance (Amendment) Act, 1941 (18 of 1941) s. 4.

## (Part II.—Provisions applicable to Insurers.)

<sup>1</sup>[3B. If, when considering an application for registration under section 3 or at any other time, it appears to the Superintendent of Insurance that the assured rates, advantages, terms and conditions offered or to be offered in connection with life insurance business are in any respect not workable or sound, he may require that a statement thereof shall be submitted to an actuary appointed by the insurer for the purpose and approved by the Superintendent of Insurance, and may by order in writing further require the insurer to make within such time as may be specified in the order such modifications in the said rates, advantages, terms or conditions, as the case may be, as the said actuary may report to be necessary to enable him to certify that the said rates, advantages terms and conditions are workable and sound.]

**Certification of soundness of terms of life insurance business.**

4. (1) <sup>2</sup>[No Insurer, not being a Co-operative Life Insurance Society to which Part IV of the Insurance Act, 1938 applies, shall pay] or undertake to pay on any policy of life insurance issued after the <sup>3</sup>[commencement of the Insurance (Amendment) Act, 1946] an annuity of <sup>4</sup>[less than one hundred rupees or a gross sum of less than one thousand rupees] exclusive of any profit or bonus provided that this shall not prevent an insurer from converting any policy into a paid up policy of any value or payment of surrender value of any amount.

**Minimum limits for annuities and other benefits secured by policies of life Insurance.**

<sup>5</sup>(2) Nothing contained in this section shall apply to any policy of the description known as a group policy, where the number of persons covered by the policy is not less than fifty or such smaller number as may be approved by the Superintendent of Insurance and a standard form of the policy has been certified in writing by the Superintendent of Insurance to be a policy of such description <sup>6</sup>[or to any policy undertaking to pay a gross sum of more than five hundred rupees or an annuity of more than fifty rupees, issued—

- (a) by an insurer to any person in his permanent employ in respect of the life of that person, or
- (b) under any scheme, approved by the Superintendent of Insurance and complying with such conditions, if any, as he may think fit to impose, whereby premiums due from persons employed under any employer are collected by or under the supervision of the employer,

or to any policy issued by a Mutual Insurance Company to which Part IV applies and which the Superintendent of Insurance may by order in writing exempt from the provisions of this section, for so long as the company complies with such conditions, if any, as may be prescribed.]]

5. (1) An insurer shall not be registered by a name identical with that by which an insurer in existence is already registered, or so nearly

**Restriction on name of Insurer.**

<sup>1</sup>Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 4.

<sup>2</sup>Subs. by the Insurance (Amendment) Act, 1948 (10 of 1948), s. 2, for certain words.

<sup>3</sup>Subs. by s. 5 of Act 6 of 1946, for "commencement of this Act".

<sup>4</sup>Subs., *ibid*, for "fifty rupees or less or a gross sum of rupees five hundred or less".

<sup>5</sup>Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 5, for the original sub-section (2)".

<sup>6</sup>Ins. by Act 6 of 1946, s. 5.



## (Part II.—Provisions applicable to Insurers.)

resembling that name as to be calculated to deceive except when the insurer in existence is in the course of being dissolved and signifies his consent to the Superintendent of Insurance. •

(2) If an insurer, through inadvertence or otherwise, is without such consent as aforesaid registered by a name identical with that by which an insurer already in existence whether previously registered or not is carrying on business or so nearly resembling it as to be calculated to deceive, the first-mentioned insurer shall, if called upon to do so by the Superintendent of Insurance on the application of the second-mentioned insurer, change his name within a time to be fixed by the Superintendent of Insurance:

Provided that nothing in this section shall apply to any insurer carrying on business before the 27th day of January, 1937, under the Indian Life Assurance Companies Act, 1912.

VI of 191

[Provided further that in the application of this section to any insurer who begins to carry on insurance business after the commencement of the Insurance (Amendment) Act, 1946, the references to an insurer in existence in sub-section (1) and this sub-section shall be construed as including references to a provident society (as defined in Part III) in existence, whether or not the society is in the course of being dissolved.]

(3) No insurer other than a provident society [as defined in Part III], who begins to carry on insurance business after the commencement of this Act, shall adopt as its name and no such insurer carrying on business before the commencement of this Act shall continue after the expiry of six months from the commencement thereof to use as its name any combination of words which includes the word "provident".

Require-  
ments as to  
capital.

6. No insurer incorporated after, or who commenced carrying on the business of life insurance in [the Provinces], whether solely or in common with any other business, after the 26th day of January, 1937, shall be registered unless he has as working capital a net sum of not less than fifty thousand rupees exclusive of the deposit to be made before registration under sub-section (5) of section 7 of this Act, and exclusive in the case of a company of any sums payable as preliminary expenses in the formation of the company.

Deposits.

7. (1) Every insurer not being an insurer specified in sub-clause (c) of clause (9) of section 2 shall, in respect of the insurance business carried on by him in [the Provinces], deposit and keep deposited with the Reserve Bank of India in one of the offices in India of the Bank for and on behalf of the Central Government [the amount hereafter specified, either in cash or in approved securities estimated at the market value of the securities on

<sup>1</sup> Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 6.

<sup>2</sup> Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 6, for "to which Part III applies".

<sup>3</sup> Subs. by the A. O. 1948 for "British India".

<sup>4</sup> Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 4 (with retrospective effect) for "cash or approved securities estimated at the market value of the securities on the day of deposit of the amount hereafter specified, namely".

## (Part II.—Provisions applicable to Insurers.)

the day of deposit, or partly in cash and partly in approved securities so estimated]:

- (a) where the business done or to be done is life insurance only, two hundred thousand rupees;
- (b) where the business done or to be done is fire insurance only, one hundred and fifty thousand rupees;
- (c) where the business done or to be done is marine insurance only, one hundred and fifty thousand rupees;
- (d) where the business done or to be done <sup>1</sup>[is miscellaneous insurance only, that is to say, insurance which is not in the opinion of the Central Government principally or wholly of any kind or kinds included in clauses (a), (b), or (c)], one hundred and fifty thousand rupees;
- (e) where the business done or to be done <sup>2</sup>[is] life insurance and any one of the three classes specified in clauses (b), (c) and (d), three hundred thousand rupees of which two hundred thousand rupees shall be the deposit for life insurance business;
- (f) where the business done or to be done <sup>2</sup>[is] life insurance and any two of the three classes specified in clauses (b), (c) and (d), four hundred thousand rupees of which two hundred thousand rupees shall be the deposit for life insurance business;
- (g) where the business done or to be done <sup>2</sup>[is] life insurance and all three classes specified in clauses (b), (c) and (d), four hundred and fifty thousand rupees of which two hundred thousand rupees shall be the deposit for life insurance business;
- (h) where the business done or to be done does not include life insurance but <sup>2</sup>[is] any two of the classes specified in clauses (b), (c) and (d), two hundred and fifty thousand rupees;
- (i) where the business done or to be done does not include life insurance but <sup>2</sup>[is] all three classes specified in clauses (b), (c) and (d), three hundred and fifty thousand rupees;<sup>3\*</sup>

8\*

<sup>4</sup>[Provided that, where the business done or to be done is marine insurance only and relates exclusively to country craft or its cargo or both, the amount to be deposited under this subsection shall be ten thousand rupees only.]

(2) Where the insurer is an insurer specified in sub-clause (c) of clause (9) of section 2, he shall be deemed to have complied with the provisions

<sup>1</sup> Subs. for "is accident and miscellaneous insurance including workmen's compensation and motor car insurance" (with retrospective effect) by s. 4 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>2</sup> Subs., *ibid.*, for "includes".

<sup>3</sup> The word "and" and clause (i) were rep. by s. 4 of the Insurance (Amendment)

<sup>4</sup> *Ins. ibid.*

*(Part II.—Provisions applicable to Insurers.)*

of this section as to deposits, if in respect of any class of insurance business [carried on] by him in <sup>2</sup>[the Provinces] under a standing contract of the nature referred to in sub-clause (c) of clause (9) of section 2 a deposit of an amount one-and-a-half times that specified in sub-section (1) as the deposit for that class of insurance business has been made in the Reserve Bank of India in one of the offices in India of the Bank for and on behalf of the Central Government in cash or approved securities estimated at the market value of the securities on the day of deposit by or on behalf of the underwriters who are members of the Society of Lloyd's with whom he has his standing contract.

(3) Where the deposit is to be made by an insurer incorporated before, or carrying on the business of insurance in <sup>2</sup>[the Provinces] before, the 27th day of January, 1937, the deposit referred to in sub-section (1) may be made in not more than seven instalments, of which the first shall be not less than one-fourth of the total amount of the deposit and shall be paid before the application for registration is made, the second shall be not less than one-sixth of the balance of the deposit and shall be paid before <sup>3</sup>[the expiry of four months from the commencement of this Act], and the subsequent instalments shall be of not less than the minimum amount required as the second instalment and shall be paid before the 1st day of January of each succeeding year:

Provided that in the case of insurers carrying on life insurance business only, the deposit may be made in not more than ten instalments, of which the first shall be not less than one-fourth of the total amount of the deposit, and shall be paid before the application for registration is made, the second shall be not less than one-ninth of the balance of the deposit, and shall be paid before <sup>3</sup>[the expiry of four months from the commencement of this Act], and the subsequent instalments shall be of not less than the minimum amount required as the second instalment, and shall be paid before the 1st day of January of each succeeding year.

(4) Notwithstanding anything contained in sub-section (3), in the case of an insurer <sup>4</sup>[to whom that sub-section applies,] not being an insurer specified in sub-clause (a) (i) or sub-clause (b) of clause (9) of section 2, and not being an insurer incorporated in or domiciled in the United Kingdom, the deposit referred to in sub-section (1) shall be made in two instalments of which the first shall be not less than one-half of the total amount of the deposit and shall be made before the application for registration is made, and the second shall be made before the expiry of one year from the date of registration.

(5) Where the deposit is to be made by an insurer neither incorporated before, nor carrying on insurance business in <sup>2</sup>[the Provinces] before, the 27th day of January, 1937, the deposit may be made in instalments of not less than one-fourth the total amount before the application for registration

<sup>1</sup> Subs. for "transacted" by s. 3 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>2</sup> Subs. by the A. O. 1948 for "British India".

<sup>3</sup> Subs. for "the 1st day of January, 1939" by Act 11 of 1939, s. 3.

<sup>4</sup> Ins., *ibid.*

*(Part II.—Provisions applicable to Insurers.)*

is made, not less than one-third the balance before the expiry of one year from the commencement of business in <sup>1</sup>[the Provinces], and not less than one-half the residue before the expiry of two years from the commencement of business in <sup>1</sup>[the Provinces], and the balance before the expiry of three years from the commencement of business in <sup>1</sup>[the Provinces]:

Provided that in the case of any insurer not being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2, and not being an insurer incorporated in or domiciled in the United Kingdom, the deposit shall be made in full before the application for registration is made.

(6) No class of insurance business in addition to the class or classes in respect of which an insurer is already liable to make a deposit under sub-section (1) or sub-section (2) shall be undertaken by the insurer until the deposit to which he is already liable has been made in full, and the additional deposit required in respect of the additional class of business or so much thereof as under the provisions of sub-section (3), (4) or (5) is to be made before the application for registration, has also been made in full.

(7) Securities already deposited with the Controller of Currency in compliance with the Indian Life Assurance Companies Act, 1912, shall be transferred by him to the Reserve Bank of India and shall, to the extent of their market value <sup>2</sup>[as at the date of the commencement of this Act], be deemed to be deposited under this Act <sup>3</sup>[as the instalment or as part of the instalment to be made under the foregoing provisions of this section before the application for registration is made whether any such application is or is not in fact made].

(8) A deposit made in cash shall be held by the Reserve Bank of India to the credit of the insurer and shall <sup>4</sup>[except to the extent, if any, to which the cash has been invested in securities under sub-section (9A)], be returnable to the insurer in cash in any case in which under the provisions of this Act a deposit is to be returned; and any interest accruing due and collected on securities deposited under sub-section (1) or sub-section (2) shall be paid to the insurer, subject only to deduction of the normal commission chargeable for the realization of interest.

<sup>5</sup>[(9) The insurer may at any time place any securities deposited by him under this section with the Reserve Bank of India either by cash or by other approved securities or partly by cash and partly by other approved securities, provided that such cash, or the value of such other approved securities estimated at the market rates prevailing at the time of replacement, or such cash together with such value as the case may be, is not less than the value of the securities replaced estimated at the market rates prevailing when they were deposited.

<sup>1</sup> Subs. by the A. O. 1948 for "British India".

<sup>2</sup> Subs. for "on the day of the first deposit made in compliance with this Act" (with retrospective effect) by s. 4 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>3</sup> Subs. (with retrospective effect) for the words "in respect of the life insurance business of the insurer", *ibid.*

<sup>4</sup> Ins. (with retrospective effect), *ibid.*

<sup>5</sup> Sub-sections (9), (9A) and (9B) were subs. for the original sub-section (9) (with retrospective effect), *ibid.*

*(Part II.—Provisions applicable to Insurers.)*

(9A) The Reserve Bank of India shall, if so requested by the insurer,—

- (a) sell any securities deposited by him with the Bank under this section and hold the cash realised by such sale as deposit, or
- (b) invest in approved securities specified by the insurer the whole or any part of a deposit held by it in cash or the whole or any part of cash received by it on the sale of or on the maturing of securities deposited by the insurer, and hold the securities in which investment is so made as deposit, <sup>1</sup>[and may charge the normal commission on such sale or on such investment].

(9B) Where sub-section (9A) applies,—

- (a) if the cash realised by the sale of or on the maturing of the securities (excluding in the former case the interest accrued) falls short of the market value of the securities at the date on which they were deposited with the Bank, the insurer shall make good the deficiency by a further deposit either in cash or in approved securities estimated at the market value of the securities on the day on which they are deposited, or partly in cash and partly in approved securities so estimated, within a period of two months from the date on which the securities matured or were sold or where the securities matured or were sold before the 21st day of March 1940, within a period of four months from the commencement of the Insurance (Amendment) Act, 1940; and unless he does so the insurer shall be deemed to have failed to comply with the requirements of this section as to deposits; and
- (b) if the cash realised by the sale of or on the maturing of the securities (excluding in the former case the interest accrued) exceeds the market value of the securities at the date on which they were deposited with the Bank, the Central Government may, if satisfied that the full amount required to be deposited under sub-section (1) is in deposit, direct the Reserve Bank to return the excess.]

(10) If any part of a deposit made under this section is used in the discharge of any liability of the insurer, the insurer shall deposit such additional sum in cash or approved securities <sup>2</sup>estimated at the market value of the securities on the day of deposit, or partly in cash and partly in such securities], as will make up the amount so used. The insurer shall be deemed to have failed to comply with the requirements of sub-section (1), unless the deficiency is supplied within a period of two months from the date when the deposit or any part thereof is so used for discharge of liabilities.

**Reservation  
of deposits.**

8. (1) Any deposit made under section 7 <sup>3</sup>[or section 98] shall be deemed to be part of the assets of the insurer but shall not be susceptible of any assignment or charge; nor shall it be available for the discharge of any liability of the insurer other than liabilities arising out of policies of

<sup>1</sup> Ins. by s. 7 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Ins. by s. 4 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>3</sup> Ins. by s. 4 of the Insurance (Amendment) Act, 1939 (11 of

## (Part II.—Provisions applicable to Insurers.)

insurance issued by the insurer so long as any such liabilities remain undischarged; nor shall it be liable to attachment in execution of any decree except a decree obtained by a policy-holder of the insurer in respect of a debt due upon a policy which debt the policy-holder has failed to realise in any other way.

(2) Where a deposit is made in respect of life insurance business the deposit made in respect thereof shall not be available for the discharge of any liability of the insurer other than liabilities arising out of policies of life insurance issued by the insurer.

9. <sup>1</sup>[(1)] Where an insurer has ceased to carry on in <sup>2</sup>[the Provinces] **Refun of deposits** any class of insurance business in respect of which a deposit has been made under section 7 <sup>3</sup>[or section 98] and his liabilities in <sup>4</sup>[the Provinces] in respect of business of that class have been satisfied or are otherwise provided for, the Court may, on the application of the insurer, order the return to the insurer of so much of the deposit as does not relate to the classes of insurance, if any, which he continues to carry on.

<sup>4</sup>[(2)] An application under this section shall, if the applicant is carrying on insurance business in <sup>4</sup>[any Acceding State or other Indian State] notified in this behalf by the Central Government in the official Gazette, be accompanied by a statement to that effect, and in such a case the Court shall not order the return of any deposit under this section unless it is satisfied, after giving notice to the chief insurance authority of <sup>5</sup>[that State], that the liabilities of the applicant to that State in respect of the class of business concerned have been satisfied or are otherwise provided for.]

10. (1) Where the insurer carries on business of more than one of the classes specified in clauses (a), (b), (c) and (d) of sub-section (1) of section 7, he shall keep a separate account of all receipts and payments in respect of each such class of insurance business <sup>6</sup>[and where the insurer carries on business of the class specified in clause (d) of that sub-section whether alone or in conjunction with business of another class, he shall, unless the Superintendent of Insurance waives this requirement in writing, keep a separate account of all receipts and payments in respect of each sub-class of the class specified in clause (d) as may be prescribed in this behalf: **Separation of accounts and funds.**

Provided that no sub-class of the class of insurance business specified in clause (d) of sub-section (1) of section 7 shall be prescribed under this sub-section if the insurance business comprised in the sub-class consists of insurance contracts which are terminable by the insurer at intervals not exceeding twelve months and under which, if a claim arises, the insurer's liability to pay benefit ceases within one year of the date on which the claim arose.]

<sup>1</sup> Section 9 was re-numbered as sub-section (1) and sub-section (2) ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 7.

<sup>2</sup> Subs. by the A. O. 1948, for "British India".

<sup>3</sup> Ins. by the Indian Insurance (Amendment) Act, 1939 (11 of 1939), s. 5.

<sup>4</sup> Subs. by the A. O. 1948 for "any Indian State".

<sup>5</sup> Subs. by the A. O. 1948 for "the Indian State".

<sup>6</sup> Ins by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 8.

## (Part II.—Provisions applicable to Insurers.)

(2) Where the insurer carries on the business of life insurance, <sup>1</sup>[all receipts due in respect of such business], shall be carried to and shall form a separate fund to be called the life insurance fund <sup>2</sup>[the assets of which shall, after the expiry of six months from the commencement of the Insurance (Amendment) Act, 1946, be kept distinct and separate from all other assets of the insurer] and the deposit made by the insurer in respect of life insurance business shall be deemed to be <sup>3</sup>[part of the assets of such fund; and a statement, certified by an auditor showing such assets as at the close of every calendar year and as at any other date which the Superintendent of Insurance may specify, shall be furnished to the Superintendent of Insurance within a period of three months from the date to which the statement relates or within such further period, not exceeding one month, as the Central Government may in any case think fit to allow].

<sup>4</sup>[(2A) No insurer carrying on life insurance business shall be entitled to be registered for any class of insurance business in addition to the class or classes for which he has been already registered unless the Superintendent of Insurance is satisfied that the assets of the life insurance fund of the insurer are adequate to meet all his liabilities on policies of life insurance maturing for payment.]

(3) The life insurance fund shall be as absolutely the security of the life policy-holders as though it belonged to an insurer carrying on no other business than life insurance business and shall not be liable for any contracts of the insurer for which it would not have been liable had the business of the insurer been only that of life insurance and shall not be applied directly or indirectly <sup>5</sup>\* \* \* \* for any purposes <sup>6</sup>[other than those of the life insurance business of the insurer].

Accounts  
and balance  
sheet,

11. (1) Every insurer, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all insurance business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him in India, shall at the expiration of each calendar year prepare with reference to that year—

(a) in accordance with the regulations contained in Part I of the First Schedule, a balance-sheet in the form set forth in Part II of that Schedule;

(b) in accordance with the regulations contained in Part I of the Second Schedule, a profit and loss account in the forms set forth in Part II of that Schedule, except where the insurer carries on business of one class only of the classes specified in clauses (a), (b) and (c) of sub-section (1) of section 7 and no other business;

<sup>1</sup> Subs. for "the excess of receipts over payments in respect of such business" by 8 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 8.

<sup>3</sup> Subs. for "part of such fund", *ibid.*

<sup>4</sup> Ins., *ibid.*

<sup>5</sup> The words "save as provided in section 49" rep. by Act 19 of 1941, s. 8.

<sup>6</sup> Subs. for "other than those of life insurance", *ibid.*

## (Part II.—Provisions applicable to Insurers.)

(c) <sup>1</sup>[in respect of each class or sub-class of insurance business for which he is required under sub-section (1) of section 10 to keep a separate account of receipts and payments] <sup>2</sup>[, a revenue account in accordance with the regulations, and in the form or forms, set forth in the Third] Schedule applicable to <sup>3</sup>[that class or sub-class of insurance business].

VII of 1913. (2) Unless the insurer is a company <sup>4</sup>[, as defined in clause (2) of sub-section (1) of section 2 of the Indian Companies Act, 1913], the accounts and statements referred to in sub-section (1) shall be signed by the insurer, or in the case of a company by the chairman, if any, and two directors and the principal officer of the company, or in the case of a firm by two partners of the firm, and shall be accompanied by a statement containing the names and descriptions of the persons in charge of the management of the business during the period to which such accounts and statements refer and by a report by such persons on the affairs of the business during that period.

VII of 1912. (3) Where an insurer carrying on the business of insurance at the commencement of this Act has prepared the balance-sheet and accounts required by the Indian Life Assurance Companies Act, 1912, or has based his accounts upon the financial and not the calendar year, the provisions of this section shall, if the Central Government so directs in any case apply until the 31st day of December, 1939, as if in sub-section (1) references to the calendar year were references to the financial year.

VII of 1918. 12. The balance-sheet, profit and loss account, revenue account and profit and loss appropriation account of every insurer, in the case of an insurer specified in sub-clause (a) (i) or sub-clause (b) of clause (9) of section 2 in respect of all insurance business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him in India, shall, unless they are subject to audit under the Indian Companies Act, 1913, be audited annually by an auditor, and the auditor shall in the audit of all such accounts have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities and penalties imposed on, auditors of companies by section 145 of the Indian Companies Act, 1913. **Audit.**

VII of 1913. 13. (1) Every insurer carrying on life insurance business shall, in respect of the life insurance business transacted by him in India, and also **in the case of an insurer specified in sub-clause (a) (i) or sub-clause (b) of clause (9) of section 2 in respect of all life insurance business transacted by him, once at least in every five years cause an investigation to be made by an actuary into the financial condition of the life insurance business carried on by him, including a valuation of his liabilities in respect thereto and shall cause an abstract of the report of such actuary to be made in** **Actuarial report and abstract.**

<sup>1</sup> Subs. for "in respect of each class of insurance business carried on by him" by s. 9 of the Insurance (Amendment) Act, 1941 (18 of 1941), s. 9.

<sup>2</sup> Subs. for "in accordance with the regulations contained in Part I of the third Schedule, a revenue account in the form or forms set forth in Part II of that" by s. 9 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>3</sup> Subs. for "that class of insurance business" by Act 13 of 1941, s. 9.

<sup>4</sup> Subs. for "to which the Indian Companies Act, 1913, applies", *ibid.*



*(Part II.—Provisions applicable to Insurers.)*

accordance with the regulations contained in Part I of the Fourth Schedule and in conformity with the requirements of Part II of that Schedule.

(2) The provisions of sub-section (1) regarding the making of an abstract shall apply whenever at any other time an investigation into the financial condition of the insurer is made with a view to the distribution of profits or an investigation is made of which the results are made public.

(3) There shall be appended to every such abstract as is referred to in sub-section (1) or sub-section (2) a certificate signed by the principal officer of the insurer that full and accurate particulars of every policy under which there is a liability either actual or contingent have been furnished to the actuary for the purpose of the investigation.

(4) There shall be appended to every such abstract a statement, in conformity with the requirements of Part II of the Fifth Schedule and prepared in accordance with the regulations contained in Part I of that Schedule, of the life insurance business in force at the date to which the accounts of the insurer are made up for the purposes of such abstract:

Provided that, if the investigation, referred to in sub-sections (1) and (2) is made annually by any insurer, the statement need not be appended every year but shall be appended at least once in every five years.

(5) Where an investigation into the financial condition of an insurer is made as at a date other than the expiration of the year of account, the accounts for the period since the expiration of the last year of account and the balance-sheet as at the date at which the investigation is made shall be prepared and audited in the manner provided by this Act.

[(6) The provisions of this section relating to life insurance business shall apply also to any such sub-class of insurance business included in the class 'Miscellaneous Insurance' as may be prescribed under sub-section (1) of section 10; and the Superintendent of Insurance may authorise such modifications and variations of the regulations contained in Part I of the Fourth and Fifth Schedules and of the requirements of Part II of those Schedules as may be necessary to facilitate their application to any such sub-class of insurance business:]

Provided that, if the Superintendent of Insurance is satisfied that the number and amount of the transactions carried out by an insurer in any such sub-class of insurance business is so small as to render periodic investigation and valuation unnecessary, he may exempt that insurer from the operation of this sub-section in respect of that sub-class of insurance business.]

**Register of policies and register of claims.**

14. Every insurer, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him in India, shall maintain—

(a) a register or record of policies, in which shall be entered, in respect of every policy issued by the insurer, the name and

<sup>1</sup> Ins. by s. 10 of the Insurance (Amendment) Act, 1911 (13 of 1911).

*(Part II.—Provisions applicable to Insurers.)*

address of the policy-holder, the date when the policy was effected and a record of any transfer, assignment or nomination of which the insurer has notice, and

- (b) a register or record of claims, in which shall be entered every claim made together with the date of the claim, the name and address of the claimant and the date on which the claim was discharged, or, in the case of a claim which is rejected, the date of rejection and the grounds therefor.

15. (1) The audited accounts and statements referred to in section 11<sup>1</sup> [or sub-section (5) of section 13] and the abstract and statement referred to in section 13 shall be printed, and four copies thereof shall be furnished as returns to the Superintendent of Insurance<sup>2</sup> [in the case of the accounts and statements referred to in section 11<sup>1</sup> or sub-section (5) of section 13] within six months and in the case of the abstract and statement referred to in section 13 within nine months] from the end of the period to which they refer. \* \* \* \* \*

Submission  
of returns.

Provided that the said period of six months shall in the case of insurers having their principal place of business or domicile outside India and in the case of insurers constituted, incorporated or domiciled in [the Provinces of India] but also carrying on business outside India be extended by three months, and provided further that the Central Government may in any case extend the time allowed by this sub-section for the furnishing of such returns by a further period not exceeding three months.

(2) Of the four copies so furnished one shall be signed in the case of a company by the chairman and two directors and by the principal officer of the company and, if the company has a managing director or managing agent by that director or managing agent, in the case of a firm, by two partners of the firm, and, in the case of an insurer being an individual by the insurer himself [and one shall be signed by the auditors, who made the audit or the actuary who made the valuation as the case may be].

(3) Where the insurer's principal place of business or domicile is outside [the Provinces of India], he shall forward to the Superintendent of Insurance, along with the documents referred to in section 11, the balance-sheet, profit and loss account and revenue account and the valuation reports and valuation statements, if any, which the insurer is required to file with the public authority of the country in which the insurer is constituted, incorporated or domiciled, or, where such documents are not required to be filed, a certified statement showing the total assets and liabilities of the insurer at the close of the period covered by the said documents and his total income and expenditure during that period.

<sup>1</sup> Ins. by s. 10 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>2</sup> Subs. for "within six months" by s. 11 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>3</sup> The words "The Superintendent of Insurance may extend the time allowed for furnishing the abstract and statement referred to in section 13 by a period not exceeding three months" were rep. *ibid.*

<sup>4</sup> Subs. by the A. O. 1948 for "British India".

## (Part II.—Provisions applicable to Insurers.)

Returns by  
insurers  
established  
outside the  
Provinces of  
India

16. (1) Where by the law of the country in which an insurer, not being an insurer specified in sub-clause (a) (i) or sub-clause (b) of clause (9) of section 2, is constituted incorporated or domiciled, the insurer is required to prepare and to furnish to a public authority of that country documents of substantially the same nature as the documents required to be furnished as returns in accordance with the provisions of section 15, the provisions of sub-section (2) of this section shall apply to such insurer in lieu of the provisions of sections 11, 12, 13, and 15.

(2) The insurer shall, within the time specified in sub-section (1) of section 15, furnish to the Superintendent of Insurance four certified copies in the English language of every balance-sheet, account, abstract, report and statement supplied to the public authority referred to in sub-section (1) of this section, and in addition thereto, <sup>3</sup>[four certified copies] in the English language of each of the following statements, namely:—

(a) a statement <sup>2</sup>[audited <sup>5</sup>[by an auditor or] by a person duly qualified under the law of the insurer's country] showing the assets held by the insurer in India <sup>4</sup>[as at the date of any balance-sheet so furnished];

(b) <sup>5</sup>[for each class or sub-class of insurance business for which he is required under sub-section (1) of section 10 to keep a separate account of receipts and payments, a revenue account for the period covered by any account so furnished] <sup>6</sup>[, prepared in accordance with the regulations, and in the form or forms, set forth in] the Third Schedule applicable to <sup>7</sup>[that class or sub-class of insurance business] <sup>8</sup>[and similarly audited,] showing separately with respect to business transacted by the insurer in India the details required to be supplied in a revenue account furnished under this clause of this sub-section;

<sup>3</sup>[(c) a separate abstract of the valuation report in respect of all business transacted in India in each class or sub-class of insurance business to which section 13 refers, prepared in the manner required by that section, and];

(d) a declaration in the prescribed form stating that all amounts received by the insurer directly or indirectly whether from his head office or from any other source outside India have been shown in the revenue account except such sums as properly appertain to the capital account.

<sup>1</sup> Subs. for "four copies" by s. 7 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>2</sup> Ins. by s. 7, *ibid.*

<sup>3</sup> Ins. by s. 11 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>4</sup> Ins. by s. 12 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>5</sup> Subs. for "for each class of insurance business carried on by him, a revenue account", *ibid.*

<sup>6</sup> Subs. for "in the form or forms set forth in Part II of" by Act 6 of 1946, s. 11.

<sup>7</sup> Subs. for "that class of business" by Act 13 of 1941, s. 12.

<sup>8</sup> Subs. for the original clause, *ibid.*

## (Part II.—Provisions applicable to Insurers.)

VII of 1913. 17. Where an insurer, being a company incorporated under the Indian Companies Act, 1913 <sup>1</sup>[or under the Indian Companies Act, 1882, or under VI of 1882. the Indian Companies Act, 1866, or under any Act repealed thereby.] in X of 1866. any year furnishes <sup>2</sup>[his balance-sheet and accounts] in accordance with the provisions of section 15, he may at the same time send to the Registrar of Companies <sup>3</sup>[copies of such balance-sheet and accounts]; and <sup>4</sup>[where such copies are so sent] it shall not be necessary for the company <sup>5</sup>[to file copies of the balance-sheet and accounts] with the Registrar as required by sub-section (1) of section 131 of <sup>6</sup>[the first mentioned Act] and <sup>7</sup>[such copies so sent] <sup>8</sup>[shall be chargeable with the same fees and] shall be dealt with in all respects as if they were filed in accordance with that section.

Exemption from certain provisions of the Indian Companies Act, 1913

<sup>9</sup>[17A. Nothing in this Act shall apply to the preparation of accounts by an insurer and the audit and submission thereof in respect of any accounting year which has expired prior to the commencement of this Act and notwithstanding the other provisions of this Act, such accounts shall be prepared, audited and submitted in accordance with the law in force immediately before the commencement of this Act.]

This Act not to apply to preparation of accounts, etc. for periods prior to this Act coming into force.

18. Every insurer shall furnish to the Superintendent of Insurance a certified copy of every report on the affairs of the concern which is submitted to the members or policy-holders of the insurer immediately after its submission to the members or policy-holders as the case may be.

Furnishing reports.

19. Every insurer, being a company or body incorporated under any law for the time being in force in <sup>10</sup>[the Provinces], shall furnish to the Superintendent of Insurance an abstract of the proceedings of every general meeting within thirty days from the holding of the meeting to which it relates.

Abstract of proceedings of general meetings.

20. (1) Every return furnished to the Superintendent of Insurance or a certified copy thereof shall be kept by the Superintendent and shall be open to inspection; and any person may procure a copy of any such return, or of any part thereof, on payment of a fee of six annas for every hundred words or fractional part thereof required to be copied, any five figures being deemed equivalent to one word.

Custody and inspection of documents and supply of copies.

(2) A printed or certified copy of the accounts, statements and abstract furnished in accordance with the provisions of section 15 or section 16 shall, on the application of any share-holder or policy-holder made at any time within two years from the date on which the document was so furnished, be supplied to him by the insurer within fourteen days when

<sup>1</sup> Ins. by s. 8 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>2</sup> Subs. for "his accounts and balance-sheet" *ibid.*

<sup>3</sup> Subs. for "a copy of such accounts and balance-sheet", *ibid.*

<sup>4</sup> Subs. for "where such copy is so sent", *ibid.*

<sup>5</sup> Subs. for "to file a balance-sheet", *ibid.*

<sup>6</sup> Subs. for "that Act" by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 12.

<sup>7</sup> Subs. for "the copy of the accounts and balance-sheet so sent" by s. 8 of Act 11 of 1939.

<sup>8</sup> Ins. by s. 13 of the Insurance (Amendment) Act, 1941 (43 of 1941).

<sup>9</sup> Ins. by s. 9 of Act 11 of 1939.

<sup>10</sup> Subs. by the A. O. 1918 for "British India".

*(Part II.—Provisions applicable to Insurers.)*

the insurer is constituted, incorporated or domiciled in [the Provinces] and in any other case within one month of such application.

(3) A copy of the memorandum and articles of association of the insurer, if a company, shall on the application of any policy-holder, be supplied to him by the insurer on payment of one rupee.

**Powers of Superintendent of Insurance regarding returns.**

21. (1) If it appears to the Superintendent of Insurance that any return furnished to him under the provisions of this Act is inaccurate or defective in any respect, he may—

- (a) require from the insurer such further information, certified if he so directs by an auditor or actuary, as he may consider necessary to correct or supplement such return;
- (b) call upon the insurer to submit for his examination at the principal place of business of the insurer in [the Provinces] any book of account, register or other document or to supply any statement which he may specify in a notice served on the insurer for the purpose;
- (c) examine any officer of the insurer on oath in relation to the return;
- (d) decline to accept any such return unless the inaccuracy has been corrected or the deficiency has been supplied before the expiry of one month from the date on which the requisition asking for correction of the inaccuracy or supply of the deficiency was delivered to the insurer and if he declines to accept any such return, the insurer shall be deemed to have failed to comply with the provisions of section 15 or section 16 [or section 28] relating to the furnishing of returns.

(2) The Court may on the application of an insurer and after hearing the Superintendent cancel any order made by the Superintendent under clause (a), (b) or (c) of sub-section (1) or may direct the acceptance of any return which the Superintendent has declined to accept, if the insurer satisfies the Court that the action of the Superintendent was in the circumstances unreasonable:

<sup>3</sup>[Provided that no application under this sub-section shall be entertained unless it is made before the expiration of four months from the time when the Superintendent of Insurance made the order or decline to accept the return.]

**Power of Superintendent of Insurance to order re-valuation.**

22. <sup>4</sup>[1] If it appears to the Superintendent of Insurance that an investigation or valuation to which section 13 refers <sup>5</sup>[or an abstract of a valuation report furnished under clause (c) of sub-section (2) of section 16] does not properly indicate the condition of the affairs of the insurer by

<sup>1</sup> Subs. by the A.O. 1948 for "British India".

<sup>2</sup> Ins. by s. 13 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>3</sup> Ins. by s. 14 of the Insurance (Amendment) Act, 1944 (13 of 1944).

<sup>4</sup> Section 22 was renumbered as sub-section (1) and sub-section (2) inserted by s. 11 of Act 6 of 1946.

<sup>5</sup> Ins. by s. 15 of Act 13 of 1944.

## (Part II.—Provisions applicable to Insurers.)

reason of the faulty basis adopted in the valuation, he may, after giving notice to the insurer and giving him an opportunity to be heard, cause an investigation and valuation <sup>1</sup>as at such date as the Superintendent of Insurance, <sup>2</sup>and the insurer shall place at the disposal of the actuary appointed by the insurer for this purpose and approved by the Superintendent of Insurance, <sup>3</sup>and the insurer shall place at the disposal of the actuary so appointed and approved all the material required by the actuary for the purposes of the investigation and valuation within such period, not being less than three months, as the Superintendent of Insurance may specify].

<sup>2</sup>[(2) The provisions of sub-sections (1) and (1) of section 13, and of sub-sections (1) and (2) of section 15 or, as the case may be, of sub-section (2) of section 16 shall apply in relation to an investigation and valuation under this section:

Provided that the abstract and statement prepared as the result of such investigation and valuation shall be furnished by such date as the Superintendent of Insurance may specify.]

23. (1) Every return furnished to the Superintendent of Insurance, which has been certified by the Superintendent to be a return so furnished, shall be deemed to be a return so furnished. **Evidence of documents.**

(2) Every document purporting to be certified by the Superintendent of Insurance to be a copy of a return so furnished, shall be deemed to be a copy of that return and shall be received in evidence as if it were the original return, unless some variation between it and the original return is proved.

24. [Summary of returns to be published Omitted by s. 16 of the Insurance (Amendment) Act, 1941 (13 of 1941).

25. No insurer shall publish in <sup>3</sup>[the Provinces] any return in a form other than that in which it has been furnished to the Superintendent of Insurance: **Returns to be published in statutory forms.**

Provided that nothing contained in this section shall prevent an insurer from publishing a true and accurate abstract from such returns for the purposes of publicity.

26. Whenever any alteration occurs or is made which affects any of the matters which are required under the provisions of sub-section (2) of section 3 to accompany an application by an insurer for registration, the insurer shall forthwith furnish to the Superintendent of Insurance full particulars of such alteration. **Alterations in the particulars furnished with application for registration to be reported.**

<sup>4</sup>[All such particulars shall be authenticated in the manner required by that sub-section for the authentication of the matters therein referred to, and, where the alteration affects the assured rates, advantages, terms and conditions offered in connection with life insurance policies, the actuarial certificate referred to in clause (f) of the said sub-section shall accompany the particulars of the alteration.]

<sup>1</sup> Ins. by s. 11 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>2</sup> Section 22 was renumbered as sub-section (1) and sub-section (2) inserted, *ibid.*

<sup>3</sup> Subs. by the A.O. 1948 for "British India".

<sup>4</sup> Ins. by s. 17 of the Insurance (Amendment) Act, 1941 (13 of 1941).

## (Part II.—Investment, Loans and Management.)

## INVESTMENT, LOANS AND MANAGEMENT.

Investment  
of as-ets and  
restriction  
on loans.

27. (1) Every insurer incorporated or domiciled in <sup>1</sup>[the Provinces] <sup>2</sup>[or the United Kingdom] shall, subject to the provisions of <sup>3</sup>[sub-sections (2A) and (3)] at all times invest and hold invested assets equivalent to not less than fifty-five per cent. of the sum of the amount of his liabilities to holders of life insurance policies in India on account of matured claims and the amount required to meet the liability on policies of life insurance maturing for payment in India, less the amount of any deposit made under section 7 <sup>4</sup>[for section 98] by the insurer in respect of his life insurance business and less any amount due to the insurer for loans <sup>5</sup>[granted on and within the surrender values of policies of life insurance maturing for payment in India issued by him or by an insurer whose business he has acquired and in respect of which he has assumed liability], in the manner following, namely, twenty-five per cent. of the said sum in Government securities and a further sum equal to not less than thirty per cent. of the said sum in Government securities or other approved securities or securities of or guaranteed as to principal and interest by the Government of the United Kingdom.

by \*

\*

\*

\*

\*

(2) An insurer incorporated or domiciled elsewhere than in <sup>1</sup>[the Provinces] or the United Kingdom shall, subject to the provisions of <sup>3</sup>[sub-sections (2A) and (3)], at all times invest and hold invested assets equivalent to not less than the sum of his liabilities to holders of life insurance policies in India on account of matured claims and the amount required to meet the liability on policies of life insurance maturing for payment in India, less the amount of any deposit made under section 7 <sup>4</sup>[for section 98] by the insurer in respect of his life insurance business and less any amount due to the insurer on loans <sup>5</sup>[granted on and within the surrender values of policies of life insurance maturing for payment in India issued by him or by an insurer whose business he has acquired and in respect of which he has assumed liability], in the manner following, namely, thirty-three and one-third per cent. of the said sum in Government securities, and the balance in Government securities or other approved securities or securities of or guaranteed as to principal and interest by the Government of the United Kingdom.

<sup>7</sup>[(2A) Where an insurer has accepted reinsurance in respect of any policies of life insurance issued by another insurer and maturing for payment in India or has ceded reinsurance to another insurer in respect of any such policies issued by himself, the sum referred to in sub-section

<sup>1</sup> Subs. by the A. O. 1918 for "British India".

<sup>2</sup> Ins. by s. 15 of the Insurance (Amendment) Act, 1916 (6 of 1916).

<sup>3</sup> Subs. for "sub-section (2)", *ibid.*

<sup>4</sup> Ins. by s. 10 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>5</sup> Sub. by s. 15 of the Insurance (Amendment) Act, 1916 (6 of 1916) for the original words "granted by him on policies of life insurance" and for the words "maturing for payment in India and within their surrender values" which had been ins. by Act 11 of 1939.

<sup>6</sup> The proviso was rep. by Act 6 of 1916, s. 15.

<sup>7</sup> Ins., *ibid.*

*(Part II.—Investment, Loans and Management.)*

(1) or sub-section (2) shall be increased by the amount of the liability involved in such acceptance and decreased by the amount of liability involved in such cession.]

(3) An insurer carrying on business at the commencement of this Act to whom sub-section (1) or sub-section (2) applies shall before the expiry of four years from the commencement of this Act invest the total amount required, to be invested by those sub-sections in the manner required thereby :

Provided that of such total amount the insurer shall have invested not less than one-fourth in securities of the nature specified in sub-section (1) before the expiry of one year, not less than one-half before the expiry of two years, and not less than three-fourths before the expiry of three years from the 30th day of June, 1939].

(4) The assets required by this section to be held invested by an insurer to whom sub-section (2) applies shall be held in trust for the discharge of [liabilities] of the nature referred to in sub-section (2) and shall be vested in trustees resident in [the Provinces] and approved by the Central Government by an instrument of trust which shall be executed by the insurer and approved by the Central Government and shall define the manner in which alone the subject matter of the trust shall be dealt with.

*Explanation.*—Sub-section (2) and (4) shall apply to an insurer incorporated in [the Provinces] whose share capital to the extent of one-third is owned by, or the members of whose Governing Body to the extent of one-third consists, of individuals domiciled elsewhere than in [the Provinces] or the United Kingdom.

28. <sup>1</sup>[(1) Every insurer registered under this Act carrying on the business of life insurance shall every year, within thirty-one days from the beginning of the year, submit to the Superintendent of Insurance a <sup>2</sup>[return] showing as at the 31st day of December of the preceding year the assets held invested in accordance with section 27, and all other particulars necessary to establish that the requirements of that section have been complied with, and such <sup>3</sup>[return] shall be certified by a principal officer of the insurer.

**Statement of investments of assets.**

(2) Every such insurer shall also furnish, within fifteen days from the last day of March, June and September, a <sup>4</sup>[return] certified as aforesaid showing as at the end of each of the said months the assets held invested in accordance with section 27.

(3) The Superintendent of Insurance may at his discretion require any insurer to whom sub-section (1) applies to submit before the 1st day of August in each or any year <sup>5</sup>[return] of the nature referred to in sub-section (1), certified as required by that sub-section and prepared as at the 30th day of June.

<sup>1</sup> Subs. for "commencement of this Act" by s. 5 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>2</sup> Subs. for "claims" by s. 15 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>3</sup> Subs. by the A. O. 1948 for "British India".

<sup>4</sup> Subs. for the original sub-section (1) by s. 18 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>5</sup> Subs. for "statement" by s. 16 of Act 6 of 1946.



## (Part II.—Investment, Loans and Management.)

(1) In the case of an insurer having his principal place of business or domicile outside [the Provinces] the Superintendent of Insurance may, on application made by the insurer, extend the periods of fifteen and thirty-one days mentioned in the foregoing sub-sections to thirty days and sixty days, respectively.]

2[(2)] The Superintendent of Insurance shall be entitled at any time to take such steps as he may consider necessary for the inspection or verification of the assets invested in compliance with section 27 [or for the purpose of securing the particulars necessary to establish that the requirements of that section have been complied with.] 4[The insurer shall comply with any requisition made in this behalf by the Superintendent of Insurance, and if he fails to do so within two months from the receipt of the requisition he shall be deemed to have made default in complying with the requirements of this section.]

**Prohibition of loans.**

29. 5[(1)] No insurer shall grant loans or temporary advances either on hypothecation of property or on personal security or otherwise, except loans on life policies issued by him within their surrender value, to any director, manager, managing agent, actuary, auditor or officer of the insurer if a company, or where the insurer is a firm, to any partner therein, or to any other company or firm in which any such director, manager, managing agent, actuary, officer or partner holds the position of a director, manager, managing agent, actuary, officer or partner:

Provided that nothing herein contained shall apply to loans made by an insurer to a banking company:

Provided further that every existing loan to any director, manager, managing agent, auditor, actuary, officer or partner, notwithstanding any contract to the contrary, shall be repaid within one year from the commencement of this Act, and in case of default, such defaulting director, manager, managing agent, auditor, actuary, officer or partner shall cease to hold office on the expiry of one year from the commencement of this Act.

6[Provided further that where any event occurs giving rise to circumstances, the existence of which at the time of the grant of any subsisting loan would have made such grant a contravention of this section, such loan shall, notwithstanding any contract to the contrary, be repaid within three months from the occurrence of such event or from the commencement of the Insurance (Amendment) Act, 1946, whichever is later; and in case of default, the director, manager, auditor, actuary, officer or partner concerned shall, without prejudice to any other penalty which he may incur, cease to hold office with the insurer granting the loan on the expiry of the said three months:]

<sup>1</sup> Subs. by the A. O. 1948 for "British India".

<sup>2</sup> Re-numbered for the original sub-section (2) by s. 48 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>3</sup> Ins. by s. 6 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>4</sup> Subs. for "and the insurer shall comply with all requisitions made by the Superintendent in that behalf" *ibid*.

<sup>5</sup> Section 29 was re-numbered as sub-section (1) by s. 19 of Act 13 of 1944.

<sup>6</sup> Ins. by s. 17 of the Insurance (Amendment) Act, 1946 (6 of 1946).

## (Part II Investment Loans and Management)

Provided further that nothing in this section shall prohibit a company from granting such loans or advances to a subsidiary company or to any other company of which the company and the loan or advance is a subsidiary company.

VII of  
1913.

¶(2) The provision of Section 80D with respect to the Act 1915 shall not apply to a loan granted to a director of a municipality to repay all the loan or one granted on the security of a policy in which the municipality bears the risk and the proceeds are used to the director's benefit in the loan or within the order value of the policy.

30. Having not been notified in writing of the provisions of certain  
2. of section 29 until notified by the municipal council, they have every once in every 2 months, and at the discretion of partner  
to my ability to such be my liability under this Act be jointly  
and exclusively and in full in each of such

Liability of  
directors  
etc. for  
loss due to  
contraven-  
tions of  
sections 27  
and 29.

31. 41(f)(5)(C) states that the "Public" or "nonprofit" exception to the copyright rule with the license back of rights under article 17(2) of the Berne Convention is "a copyright in the intellectual or literary work of an individual, or the name of a public figure, published by a person other than the copyright owner, which identifies the content in the name of the author, the firm, or other individual, or the name of the publisher."

Acts of  
man & how  
to be  
kept

[illegible]

32. (1) No more than half after the commencement of the Act 1990  
a manning vessel for the conduct of his business.

Liability for  
on employ-  
ment of  
managing  
agents,  
and on the  
remunera-  
tion paya-  
ble to  
them

(7) Where any insurer engaged in the business of insurance before the commencement of this Act employs a managing agent for the conduct of his business, then notwithstanding anything to the contrary contained in the Indian Companies Act 1913 or in any other law, anything to the contrary contained in the articles of the insurer if a company or in any

<sup>1</sup> Ins. by s. 19 of the Insurance (Amendment) Act, 1911 (1, c. 191).

<sup>2</sup>Section 31 was renumbered a subsection (f) by S. 18 of the Insurance (Amendment) Act 1946 (6 of 1946).

<sup>3</sup> Subs. by the A. O. 1918 for British India

<sup>4</sup> Ins. by s. 12 of the Insurance (Amendment) Act 1939 (11 of 1939).

5 Ins by s 14 of Act 6 of 1916

6 Subs for Indian State by the A O 1948.

(Part II. Investment, Loans and Management.—Investigation.)

agreement entered into by the insurer, such managing agent shall cease to hold office on the expiry of three years from the commencement of this Act and no compensation shall be payable to him by the insurer by reason only of the premature termination of his employment as managing agent.

(3) After the commencement of this Act, notwithstanding any thing contained in the Indian Companies Act, 1913, and notwithstanding anything to the contrary contained in any agreement entered into by an insurer or in the articles of association of an insurer being a company, no insurer shall pay to a managing agent and no managing agent shall accept from an insurer or remuneration for his services as managing agent more than two thousand rupees per month in all including salary and commission and other remuneration payable to and receivable by him, for his services as managing agent.

VII of  
1913.

#### [INVESTIGATION]

Power of  
Superinten-  
dent of  
Insurance  
to order  
investi-  
gation.

33. (1) If the Superintendent of Insurance has reason to believe that the interests of the policy-holders of an insurer are in danger or that an insurer is unable to meet his obligations or has made default in complying with any of the provisions of this Act, or that an offence under this Act has been or is likely to be committed by an insurer or any officer of an insurer, or if he receives a requisition in this behalf signed by shareholders of an insurer being a company not less in number than one-tenth of the whole body of shareholders and holding not less than one-tenth of the whole share capital or if he receives a requisition in this behalf signed by not less than fifty policy-holder holding policies of life insurance that have been in force for not less than three years and are of the total value of not less than fifty thousand rupees and supported by an affidavit, he may, after giving notice to the insurer and giving him an opportunity to be heard, order an investigation of the affairs of the insurer to be made by an auditor or actuary, or by both an auditor and an actuary appointed simultaneously, or first by an auditor only or an actuary only and afterwards by an actuary or auditor, or may himself make such investigation utilising, if necessary at any time, the services of an auditor or actuary or both, and the insurer shall make available all books of account, registers and other documents and other information required for the purposes of the investigation by the person or persons making the investigation within such period, not being less than three months, as the Superintendent of Insurance may specify:]

Provided that an auditor or actuary appointed for this purpose by the Superintendent of Insurance shall not be an auditor or actuary in the employ of the insurer.]

<sup>1</sup> Subs. for "inspection" by s. 3 and Sch. II of the Repealing and Amending Act, 1942 (25 of 1942).

<sup>2</sup> Subs. for "appoint an auditor or actuary or both, not being an auditor or actuary in the employ of the insurer, to investigate the affairs of the insurer, or may himself make such investigation" by s. 20 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>3</sup> Ins. by s. 19 of the Insurance (Amendment) Act, 1946 (6 of 1946).

(Part II. Investigation—Amalgamation and Transfer of  
Insurance Business.)

(2) The Court may, on the application of an insurer and after giving notice to and hearing the Superintendent of Insurance, forbid such action by the Superintendent, if the insurer satisfies the Court that it is unnecessary in the circumstances:

<sup>1</sup>[Provided that no application under this sub-section shall be entertained unless it is made before the expiration of three months from the date on which the Superintendent of Insurance intimates to the insurer his intention to take such action.]

<sup>2</sup>(3) The results of any investigation made under this section shall be recorded in writing by the auditor or actuary appointed or by the Superintendent of Insurance, as the case may be, and four copies of the record shall be supplied to the Superintendent of Insurance; and when the investigation is completed a copy of such record or where both an auditor and an actuary have been appointed, of each such record, shall be furnished by the Superintendent of Insurance to the insurer and to the shareholders or the policy holders who have sent a requisition for such an investigation.]

(4) The Superintendent of Insurance may require the insurer to comply within a time to be specified by him (not being less than fifteen days from the receipt of the notice by the insurer) with any directions he may issue to remedy defects disclosed by such <sup>3</sup>[investigation]

(5) If as a result of any investigation made under this section, the Superintendent of Insurance is of opinion that it is necessary in the interests of the policy holders that the business of the insurer should be wound up or if the insurer fails to comply with any directions issued under sub-section (4) the Superintendent may after giving notice to the insurer and giving him an opportunity to be heard, apply to the Court to have the business of the insurer wound up.

VII of  
1913.

34. When any investigation is made in pursuance of section 33 the provisions of section 140 of the Indian Companies Act, 1913 shall apply for the purposes of such investigation as they apply to an investigation made in pursuance of section 138 of that Act, and all expenses of and incidental to such investigation <sup>4</sup>[including any expenses incurred before the making of an order by the Court under sub-section (2) of section 33] shall be defrayed by the insurer, <sup>5</sup>[shall have priority over other debts due from the insurer, and shall be recoverable as an arrear of land revenue.]

Powers of  
investi-  
gator.

#### AMALGAMATION AND TRANSFER OF INSURANCE BUSINESS

35. (1) No life insurance business of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 shall be transferred to <sup>2</sup>[any person or transferred to] or amalgamated with the life insurance

Amalgama-  
tion and  
transfer of  
insurance  
business.

<sup>1</sup> Ins. by s. 20 of the Insurance (Amendment) Act, 1941 (13 of 1941)

<sup>2</sup> Subs., *ibid*

<sup>3</sup> Subs. for "inspection" by s. 3 and Sch. II of the Repealing and Amending Act, 1942 (25 of 1942).

<sup>4</sup> Ins. by s. 21 of Act 13 of 1941. (with retrospective effect).

<sup>5</sup> Ins. by s. 7 of the Insurance (Amendment) Act, 1940 (20 of 1940)

*(Part II.—Amalgamation and Transfer of Insurance Business.)*

business of any other insurer except in accordance with a scheme prepared under this section and sanctioned by the Court having jurisdiction over one or other of the <sup>1</sup>[parties concerned].

(2) Any scheme prepared under this section shall set out the agreement under which the transfer or amalgamation is proposed to be effected, and shall contain such further provisions as may be necessary for giving effect to the scheme.

(3) Before an application is made to the Court to sanction any such scheme, notice of the intention to make the application together with a statement of the nature of the amalgamation or transfer, as the case may be, and of the reason therefor shall, at least two months before the application is made, be sent to the Central Government, <sup>2</sup>[and certified copies, four in number, of each of the following documents shall be furnished to the Central Government, and other such copies shall] during the two months aforesaid be kept open for the inspection of the members and policy-holders at the principal and branch offices and chief agencies of the insurers concerned, namely:—

(a) a draft of the agreement or deed under which it is proposed to effect the amalgamation or transfer;

<sup>3</sup>[(b) balance-sheets in respect of the insurance business of each of the insurers concerned in such amalgamation or transfer, prepared in the Form set forth in Part II of the First Schedule and in accordance with the regulations contained in Part I of that Schedule;

(c) actuarial reports and abstracts in respect of the life insurance business of each of the insurers so concerned, prepared in conformity with the requirements of Part II of the Fourth and Fifth Schedules and in accordance with the regulations contained in Part I of the Schedule concerned;

(d) a report on the proposed amalgamation or transfer, prepared by an independent actuary who has never been professionally connected with any of the parties concerned in the amalgamation or transfer at any time in the five years preceding the date on which he signs his report;

(e) any other reports on which the scheme of amalgamation or transfer was founded.

The balance-sheets, reports and abstracts referred to in clauses (b), (c) and (d) shall all be prepared as at the date at which the amalgamation or transfer if sanctioned by the Court is to take effect, which date shall

<sup>1</sup> Subs. for "insurers concerned", by s. 7 of the Insurance (Amendment) Act, 1910 (20 of 1910).

<sup>2</sup> Subs. for "and certified copies of the following documents shall be furnished to the Central Government and shall" by s. 22 of the Insurance (Amendment) Act, 1911 (13 of 1911).

<sup>3</sup> Subs. for the original clause (b) and (c) by s. 7 of Act 20 of 1940.

*(Part II.—Amalgamation and Transfer of Insurance Businesses.)*

not be more than twelve months before the date on which the application to the Court is made under this section:

Provided that if the Central Government so directs in the case of any particular insurer there may be substituted respectively for the balance-sheet, report and abstract referred to in clauses (b) and (c) prepared in accordance with this sub-section certified copies of the last balance-sheet and last report and abstract prepared in accordance with sections 11 and 13 <sup>1</sup>[of this Act or sections 7 and 8 of the Indian Life Assurance Companies Act, 1912] if that balance-sheet is prepared as at a date not more than twelve months, and that report and abstract as at a date not more than five years, before the date on which the application to the Court is made under this section.]

VI of 1912

(4) Where an application under sub-section (3) is made to the Court within three months from the commencement of this Act, the Court may, on application, extend for the insurer whose business is to be transferred to or amalgamated with the business of another insurer, the time allowed for registration <sup>2</sup>[under section 3 and] for the payment of the instalments of the deposit under section 7 or section 98] for such period not exceeding nine months as the Court may think fit.

36. When any application such as is referred to in sub-section (3) of section 35 is made to the Court, the Court shall cause, if for special reasons it so directs, notice of the application to be sent to every person resident in <sup>3</sup>[India or in a non-acceding Indian State] who is the holder of a life policy of any insurer concerned and shall cause a statement of the nature and terms of the amalgamation or transfer, as the case may be, to be published in such manner and for such period as it may direct, and, after hearing the directors and such policy-holders as apply to be heard and any other persons whom it considers entitled to be heard, may sanction the arrangement, if it is satisfied that no sufficient objection to the arrangement has been established <sup>4</sup>[and shall make such consequential orders as are necessary to give effect to the arrangement, including orders as to the disposal of any deposit made under section 7 or section 98]:

**Sanction of  
amalgama-  
tion and  
transfer  
by Court.**

<sup>5</sup>[Provided that—

(a) no part of the deposit made by any party to the amalgamation or transfer shall be returned except where, after effect is given to the arrangement, the whole of the deposit to be

<sup>1</sup> Ins. by s. 22 of the Insurance (Amendment) Act, 1941 (13 of 1941) (with retrospective effect).

<sup>2</sup> Subs. for "and for the payment of the first instalment of the deposit under sections 3 and 7" by s. 13 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>3</sup> Subs. by the A.O. 1948 for "British India or in an Indian State."

<sup>4</sup> Ins. by s. 8 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>5</sup> Ins. by s. 23 of Act 13 of 1941.

*(Part II.—Amalgamation and Transfer of Insurance Business.)*

made by the insurer carrying on the amalgamated business or the person to whom the business is transferred is completed,

(b) only so much shall be returned as is no longer required to complete the deposit last mentioned in clause (a), and

(c) while the deposit last mentioned in clause (a) remains uncompleted, no accession, resulting from the arrangement to the amount already deposited by the insurer carrying on the amalgamated business or the person to whom the business is transferred shall be appropriated as payment or part payment of any instalment of deposit subsequently due from him under section 7 or section 98.]

37. Where an amalgamation takes place between any two or more insurers, or <sup>1</sup>[where any business of an insurer is transferred] whether in accordance with a scheme confirmed by the Court or otherwise, the insurer carrying on the amalgamated business or <sup>2</sup>[the person to whom the business is transferred] as the case may be, shall, within three months from the date of the completion of the amalgamation or transfer, <sup>3</sup>[furnish in duplicate to the Central Government]—

Statements  
required  
after amal-  
gamation-  
and  
transfer.

(a) a certified copy of the scheme, agreement or deed under which the amalgamation or transfer has been effected, and

(b) <sup>4</sup>[a declaration signed by every party concerned] or in the case of a company by the chairman and the principal officer that to the best of their belief every payment made or to be made to any person whatsoever on account of the amalgamation or transfer is therein fully set forth and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities or other property by or with the knowledge of any parties to the amalgamation or transfer, and

<sup>5</sup>(c) where the amalgamation or transfer has not been made in accordance with a scheme sanctioned by the Court under section 36—

(i) balance-sheets in respect of the insurance business of each of the insurers concerned in such amalgamation or transfer, prepared in the Form set forth in Part II of the First Schedule and in accordance with the regulations contained in Part I of that Schedule, and

(ii) certified copies of any other reports on which the scheme of amalgamation or transfer was founded.]

<sup>1</sup> Subs. for "where any business of one insurer is transferred" to another by s. 24 of the Insurance (Amendment) Act, 1941 (18 of 1941).

<sup>2</sup> Subs. for "the insurer to whom the business is transferred," *ibid.*

<sup>3</sup> Subs. for "furnish to the Central Government," *ibid.*

<sup>4</sup> Subs. for "a declaration signed by every insurer concerned", *ibid.*

<sup>5</sup> Subs. *ibid.*

## (Part II—Assignment or Transfer of Policies and Nominations.)

## ASSIGNMENT OR TRANSFER OF POLICIES AND NOMINATIONS.

Assign-  
ment and  
transfer  
of in-  
surance  
policies.

38. (1) A transfer or assignment of a policy of life insurance, whether with or without consideration, may be made only by an endorsement upon the policy itself or by a separate instrument, signed in either case by the transferor or by the assignor or his duly authorised agent and attested by at least one witness, specifically setting forth the fact of transfer or assignment.

(2) The transfer or assignment shall be complete and effectual upon the execution of such endorsement or instrument duly attested but [except where the transfer or assignment is in favour of the insurer] shall not be operative as against an insurer and shall not confer upon the transferee or assignee, or his legal representative, any right to sue for the amount of such policy or the moneys secured thereby until a notice in writing of the transfer or assignment <sup>1</sup>[<sup>2</sup>and] either the said endorsement or instrument itself or a copy thereof certified to be correct by both transferor and transferee or their duly authorised agents] <sup>3</sup>[have been delivered] to the insurer  
\* \* \*

<sup>4</sup>[Provided that where the insurer maintains one or more places of business in <sup>5</sup>[the Provinces] such notice shall be delivered only at the place in <sup>6</sup>[the Provinces] mentioned in the policy for the purpose or at his principal place of business in <sup>6</sup>[the Provinces].]

(3) The date on which the notice referred to in sub-section (2) is delivered to the insurer shall regulate the priority of all claims under a transfer or assignment as between persons interested in the policy; and where there is more than one instrument of transfer or assignment the priority of the claims under such instruments shall be governed by the order in which the notices referred to in sub-section (2) are delivered.

(4) Upon the receipt of the notice referred to in sub-section (2), the insurer shall record the fact of such transfer or assignment together with the date thereof and the name of the transferee or the assignee and shall, on the request of the person by whom the notice was given, or of the transferee or assignee, on payment of a fee not exceeding one rupee, grant a written acknowledgment of the receipt of such notice, and any such acknowledgment shall be conclusive evidence against the insurer that he has duly received the notice to which such acknowledgment relates.

(5) <sup>7</sup>[Subject to the terms and conditions of the transfer or assignment, the insurer shall, from the date of the receipt of the notice referred to in sub-section (2),] recognise the transferee or assignee named in the notice as the only person entitled to benefit under the policy, and such person shall be subject to all liabilities and equities to which the transferor or

<sup>1</sup> Ins. by s. 14 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>2</sup> Subs. for "together with" by s. 25 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>3</sup> Subs. for "has been delivered", *ibid.*

<sup>4</sup> The words "at his Principal Place of business in British India by or on behalf of the transferor or transferee" were rep. by s. 14 of Act 11 of 1939.

<sup>5</sup> This Proviso was added, *ibid.*

<sup>6</sup> Subs. by the A. O. 1948 for "British India."

<sup>7</sup> Subs. for "from the date of the receipt of the notice referred to in sub-section (2) the insurer shall" by s. 14 of Act 11 of 1939.



## (Part II.—Assignment or Transfer of Policies and Nominations.)

assignor was subject at the date of the transfer or assignment and may institute any proceedings in relation to the policy without obtaining the consent of the transferor or assignor or making him a party to such proceedings.

<sup>1</sup>[(6) Any rights and remedies of an assignee or transferee of a policy of life insurance under an assignment or transfer effected prior to the commencement of this Act shall not be affected by the provisions of this section.]

(7) Notwithstanding any law or custom having the force of law to the contrary, an assignment in favour of a person made with the condition that it shall be inoperative or that the interest shall pass to some other person on the happening of a specified event during the <sup>2</sup>[lifetime of the person whose life is insured], and an assignment in favour of the survivor or survivors of a number of persons, shall be valid.

Nomination  
by policy-  
holder.

39. (1) The holder of a policy of life insurance <sup>3</sup>[on his own life,  
4 \* \* \*] may when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death.

(2) Any such nomination in order to be effectual shall, unless it is incorporated in the text of the policy itself, be made by an endorsement on the policy communicated to the insurer and registered by him in the records relating to the policy and any such nomination may at any time before the policy matures for payment be cancelled or changed by an endorsement or a further endorsement or a will, as the case may be <sup>5</sup>[but unless notice in writing of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment under the policy made *bona fide* by him to a nominee mentioned in the text of the policy or registered in records of the insurer.]

<sup>6</sup>[(3) The insurer shall furnish to the policy-holder a written acknowledgment of having registered a nomination or a cancellation or change thereof, and may charge a fee not exceeding one rupee for registering such cancellation or change.]

(4) A transfer or assignment of a policy made in accordance with section 38 shall automatically cancel a nomination:

<sup>7</sup>[Provided that the assignment of a policy to the insurer who bears the risk on the policy at the time of the assignment, in consideration of a loan granted by that insurer on the security of the policy within its

<sup>1</sup> Subs. by s. 11 of the Insurance (Amendment) Act, 1939 (11 of 1939), for the former sub-section.

<sup>2</sup> Subs. for "life of the policy holder" *ibid.*

<sup>3</sup> Ins. by s. 15, *ibid.*

<sup>4</sup> The words "not being an absolute assignee of the benefits under the policy" were rep. by s. 26 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>5</sup> Ins. by s. 15 of Act 11 of 1939.

<sup>6</sup> Subs., *ibid.*, or the original sub-section.

<sup>7</sup> Ins. by s. 26 of Act 13 of 1941.

(Part II.—Assignment or Transfer of Policies and Nominations.—  
Commission and Rebates and Licensing of Agents.)

surrender value, or its re-assignment on repayment of the loan shall not cancel a nomination, but shall affect the rights of the nominee only to the extent of the insurer's interest in the policy.]

(5) where the policy matures for payment during the <sup>1</sup>[lifetime of the person whose life is insured] or where the nominee or, if there are more nominees than one, all the nominees die before the policy matures for payment, the amount secured by the policy shall be payable to the policy-holder or his heirs or legal representatives or the holder of a succession certificate, as the case may be.

(6) Where the nominee or, if there are more nominees than one, a nominee or nominees survive the <sup>2</sup>[person whose life is insured], the amount secured by the policy shall be payable to such survivor or survivors.

(7) The provisions of this section shall not apply to any policy of life insurance to which section 6 of the Married Women's Property Act, 1874, <sup>III of 1874.</sup> applies <sup>3</sup>[or has at any time applied:]

<sup>3</sup>[Provided that where a nomination made whether before or after the commencement of the Insurance (Amendment) Act, 1946, in favour of the wife of the person who has insured his life or of his wife and children or any of them is expressed, whether or not on the face of the policy, as being made under this section, the said section 6 shall be deemed not to apply or not to have applied to the policy.]

COMMISSION AND REBATES AND LICENSING OF AGENTS.

Prohibition of Payment by way of commission or otherwise for procuring business.

40. (1) No person shall, after the expiry of six months from the commencement of this Act, pay or contract to pay any remuneration or reward whether by way of commission or otherwise for soliciting or procuring insurance business in India to any person except an insurance agent \* \* \* \* \* or a person acting on behalf of an insurer who for the purposes of insurance business employs <sup>5</sup>\* insurance agents.

<sup>6</sup>[(1A) In this section and sections 41 and 43, references to an insurance agent shall be construed as including references to an individual soliciting or procuring insurance business exclusively in an <sup>7</sup>[Acceding State or other Indian State] notified in this behalf by the Central Government in the official Gazette and holding a valid licence as an insurance agent under the law of that State]

<sup>1</sup> Subs. for "lifetime of the policy-holder" by s. 15 of the Insurance (Amendment) Act, 1930 (11 of 1930).

<sup>2</sup> Subs. for "policy-holder", *ibid.*

<sup>3</sup> Ins. by s. 20 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>4</sup> The words and figures "licensed under Section 42" were rep. by s. 16 of Act 11 of 1939.

<sup>5</sup> The word "licensed" was rep., *ibid.*

<sup>6</sup> Ins. by s. 21 of Act 6 of 1946

<sup>7</sup> Subs. by the A. O. 1948 for "Indian State".

*(Part II.—Commission and Rebates and Licensing of Agents.)*

(2) No insurance agent <sup>1</sup>\* \* \* shall be paid or contract to be paid by way of commission or as remuneration in any form an amount exceeding, in the case of life insurance business, forty per cent. of the first year's premium payable on any policy or policies effected through him and five per cent. of a renewal premium <sup>2</sup>[payable on such a policy] or, in the case of business of any other class, fifteen per cent. of the premium:

Provided that insurers, in respect of life insurance business only, may pay, during the first ten years of their business, to their insurance agents fifty-five per cent. of the first year's premium payable on any policy or policies effected through them and six per cent. of the renewal premiums <sup>3</sup>[payable on such policies]. )

<sup>2</sup>[(2A) Save as hereinafter provided, no insurance agent shall be paid or contract to be paid by way of commission or as remuneration in any form any amount in respect of any policy not effected through him:

Provided that where a policy of life insurance has lapsed, and it cannot under the terms and conditions applicable to it be revived without further medical examination of the person whose life was insured thereby, an insurer, after giving by notice in writing to the insurance agent through whom the policy was effected an opportunity to effect the revival of the policy within a time specified in the notice, being not less than one month from the date of the receipt by him of the notice, may pay to another insurance agent who effects the revival of the policy an amount calculated at a rate not exceeding half the rate of commission at which the agent through whom the policy was effected would have been paid had the policy not lapsed, on the sum payable on revival of the policy on account of arrear premiums (excluding any interest on such arrear premiums) and also on the subsequent renewal premiums payable on the policy.]

(3) Nothing in this section shall prevent the payment under any contract existing prior to the 27th day of January, 1937, of gratuities or renewal commission to <sup>3</sup>[any person, whether an insurance agent within the meaning of this Act or not,] or to his representatives after his decease in respect of insurance business effected through him before the said date.

**Prohibition of rebates.**

41. (1) No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to <sup>4</sup>[take out or renew or continue] an insurance in respect of any kind of risk relating to lives or property in India, any rebate of the whole or part of the commission payable or any rebate of the premium shown on the policy, nor shall any person taking out or renewing <sup>5</sup>[or continuing] a policy accept any rebate, except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer.

<sup>1</sup> The words and figures "licensed under section 42" were rep. by s. 16 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>2</sup> Ins. by s. 21 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>3</sup> Subs. for "an insurance agent" by s. 16 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>4</sup> Subs. for "effect or renew" by s. 27 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>5</sup> Ins., *ibid.*

## (Part II.—Commission and Rebates and Licensing of Agents.)

<sup>1</sup>[Provided that acceptance by an insurance agent of commission in connection with a policy of life insurance taken out by himself on his own life shall not be deemed to be acceptance of a rebate of premium within the meaning of this sub-section if at the time of such acceptance the insurance agent satisfies the prescribed conditions establishing that he is a *bona fide* insurance agent employed by the insurer.]

(2) Any person making default in complying with the provisions of this section shall be punishable with fine which may extend to <sup>2</sup>[five hundred rupees.]

42. (1) The Superintendent of Insurance or an officer authorised by him in this behalf shall, in the prescribed manner and on payment of the prescribed fee which shall not be more than <sup>3</sup>[three rupees], issue to any individual <sup>4</sup>[making an application in the prescribed manner] and not suffering from any of the disqualifications hereinafter mentioned a licence to act as an insurance agent for the purpose of soliciting or procuring insurance business.

Licensing  
of Insu-  
rance  
Agents.

(2) A licence issued under this section shall entitle the holder to act as an insurance agent for any registered insurer.

(3) A licence issued under this section <sup>5</sup>[shall remain in force for a period of twelve months only from the date of issue], but shall, if the applicant does not suffer from any of the disqualifications hereinafter mentioned, be renewed from year to year on payment of <sup>6</sup>[the prescribed fee which shall not be more than three rupees, and an additional fee of a prescribed amount not exceeding one rupee by way of penalty if the application for renewal of the licence does not reach the issuing authority before the date on which the licence ceases to remain in force].

XX of  
1940.

<sup>7</sup>[Provided that when any licence is issued or renewed within the year beginning on the day on which the Insurance (Amendment) Act, 1940, came into operation, the Superintendent of Insurance may specify the date not being earlier than one year nor later than two years from the date of issue or renewal, on which the licence shall cease to be in force.]

XX of  
1940.

Provided further that the Central Government may, by notification in the official Gazette, make provision in respect of licences in force at the commencement of the Insurance (Amendment) Act, 1940, extending the period for which they are to remain in force by a term of from one to eleven months.]

<sup>1</sup> Ins. by s. 27 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Subs. by s. 22 of the Insurance (Amendment) Act, 1946 (6 of 1946) for "one hundred rupees, unless the default is made by a person *taking out or renewing or continuing a policy*, in which case he shall be punishable with fine which may extend to fifty rupees only" the words in *italics* being subs. for the original words "effecting or renewing" by s. 27 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>3</sup> Subs. for "one rupee" by s. 28 of Act 13 of 1941.

<sup>4</sup> Subs. for "making an application under this section", *ibid.*

<sup>5</sup> Subs. for "shall expire on the 31st day of March in each year" by s. 9 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>6</sup> Subs. for "a fee of one rupee" by s. 28 of Act 13 of 1941.

<sup>7</sup> Ins. by s. 9 of Act 20 of 1940.

(Part II.—Commission and Rebates and Licensing of Agents.)

(4) The disqualifications above referred to shall be the following:—

- (a) that the person is a minor;
- (b) that he is found to be of unsound mind by a Court of competent jurisdiction;
- (c) that he has been found guilty of criminal misappropriation or criminal breach of trust or cheating <sup>1</sup>[or forgery or an abetment of or attempt to commit any such offence] by a Court of competent jurisdiction;

<sup>1</sup>[Provided that, where at least five years have elapsed since the completion of the sentence imposed on any person in respect of any such offence, the Superintendent of Insurance shall ordinarily declare in respect of such person that his conviction shall cease to operate as a disqualification under this clause;]

- (d) that in the course of any judicial proceeding relating to any policy of insurance or the winding up of an insurance company or in the course of an investigation of the affairs of an insurer it has been found that he has been guilty of or has knowingly participated in or connived at any fraud, dishonesty or misrepresentation <sup>2</sup>[against an insurer or an insured].

(5) If it be found that an insurance agent suffers from any of the foregoing disqualifications, without prejudice to any other penalty to which he may be liable, the Superintendent of Insurance shall, and if the agent has knowingly contravened any provision of this Act may, cancel the licence issued to the agent under this section.

<sup>1</sup>[(6) The authority which issued any licence under this section may issue a duplicate licence to replace a licence lost, destroyed or mutilated on payment of the prescribed fee which shall not be more than one rupee.]

Register  
of insu-  
rance  
agents.

43. (1) Every insurer and every person who acting on behalf of an insurer employs <sup>3</sup> insurance agents shall maintain a register showing the name and address of every <sup>3</sup> insurance agent appointed by him and the date on which his appointment began and the date, if any, on which his appointment ceased.

(2) Any individual not holding a licence issued under section 42 who acts as an insurance agent shall be punishable with fine which may extend to fifty rupees, and any insurer who, or any person acting on behalf of an insurer who, appoints as an insurance agent any individual not so licensed, or transacts any insurance business in India through any such individual, shall be punishable with fine which may extend to one hundred rupees.

(3) The provisions of sub-section (2) shall not take effect until the expiry of six months from the commencement of this <sup>4</sup>Act.

<sup>1</sup> Ins. by s. 28 of the Insurance (Amendment) Act, 1941 (18 of 1941).

<sup>2</sup> Subs. for "against an insurer or an assured" *ibid*.

<sup>3</sup> The word "licensed" was rep. by s. 29, *ibid*.

{Part II.—Commission and Rebates and Licensing of Agents.—  
Special Provisions of Law.)

44. Notwithstanding anything to the contrary in a contract between any person and an insurance agent <sup>1</sup> \* \* \* forfeiting or stopping payment of renewal commission to such insurance agent, no such person shall in respect of life insurance business done in India refuse payment to an insurance agent, of commission on renewal premiums due to him under the agreement by reason only of the termination of his agreement except for fraud:

Prohibition of cessation of payments of commission.

Provided that such agent has served such person continually and exclusively for at least ten years, and provided further that, after his ceasing to act as agent, he does not directly or indirectly solicit or procure insurance business for any other person.

SPECIAL PROVISIONS OF LAW.

45. No policy of life insurance effected before the commencement of this Act shall after the expiry of two years from the date of commencement of this Act and no policy of life insurance effected after the coming into force of this Act shall, after the expiry of two years from the date on which it was effected, be called in question by an insurer on the ground that a statement made in the proposal for insurance or in any report of a medical officer, or referee, or friend of the insured, or in any other document leading to the issue of the policy, was inaccurate or false, unless the insurer shows that such statement <sup>2</sup>[was on a material matter or suppressed facts which it was material to disclose and that it was fraudulently made] by the policy-holder and that the policy-holder knew at the time of making it that the statement was false <sup>3</sup>[or that it suppressed facts which it was material to disclose].

Policy not to be called in question on ground of misstatement after two years.

<sup>3</sup>[Provided that nothing in this section shall prevent the insurer from calling for proof of age at any time if he is entitled to do so, and no policy shall be deemed to be called in question merely because the terms of the policy are adjusted on subsequent proof that the age of the life insured was incorrectly stated in the proposal.]

46. The holder of a policy of insurance issued by an insurer in respect of insurance business transacted in <sup>4</sup>[the Provinces] after the commencement of this Act shall have the right, notwithstanding anything to the contrary contained in the policy or in any agreement relating thereto, to receive payment in <sup>4</sup>[the Provinces] of any sum secured thereby and to sue for any relief in respect of the policy in any Court of competent jurisdiction in <sup>4</sup>[the Provinces]; and if the suit is brought in <sup>4</sup>[the Provinces] any question of law arising in connection with any such policy shall be determined according to the law in force in <sup>4</sup>[the Provinces].

Application of the law in force in the provinces to policies issued in the provinces.

<sup>5</sup>[Provided that nothing in this section shall apply to a policy of marine insurance.]

<sup>1</sup> The words "licensed under section 42" were rep. by s. 30 of the Insurance (Amendment) Act, 1941 (18 of 1941).

<sup>2</sup> Subs. for "was on a material matter and fraudulently made" by s. 31, *ibid*.

<sup>3</sup> Ins., *ibid*.

<sup>4</sup> Subs. by the A. O. 1948 for "British India".

<sup>5</sup> Ins. by s. 2 of the Insurance (Amendment) Act, 1944 (7 of 1944).

## (Part II.—Special Provisions of Law.)

**Payment  
of money  
into Court.**

47. (1) Where in respect of any policy of life insurance maturing for payment an insurer is of opinion that by reason of conflicting claims to or insufficiency of proof of title to the amount secured thereby or for any other adequate reason it is impossible otherwise for the insurer to obtain a satisfactory discharge for the payment of such amount, <sup>1</sup>[the insurer may] before the expiry of nine months from the date of the maturing of the policy <sup>2</sup>[or, where the circumstances are such that the insurer cannot be immediately aware of such maturing, from the date on which notice of such maturing is given to the insurer,] apply to pay the amount into the Court within the jurisdiction of which is situated the place at which such amount is payable under the terms of the policy or otherwise.

(2) A receipt granted by the Court for any such payment shall be a satisfactory discharge to the insurer for the payment of such amount.

(3) An application for permission to make a payment into Court under this section shall be made by a petition verified by an affidavit signed by a principal officer of the insurer setting forth the following particulars, namely:—

- (a) the name of the insured person and his address;
- (b) if the insured person is deceased, the date and place of his death ;
- (c) the nature of the policy and the amount secured by it;
- (d) the name and address of each claimant so far as is known to the insurer with details of every notice of claim received;
- (e) the reasons why in the opinion of the insurer a satisfactory discharge cannot be obtained for the payment of the amount ; and
- (f) the address at which the insurer may be served with notice of any proceeding relating to disposal of the amount paid into Court.

(4) An application under this section shall not be entertained by the Court if the application is made before the expiry of six months, <sup>3</sup>[from the maturing of the policy by survival, or from the date of receipt of notice by the insurer of the death of the insured, as the case may be].

(5) If it appears to the Court that a satisfactory discharge for the payment of the amount cannot otherwise be obtained by the insurer it shall allow the amount to be paid into Court and shall invest the amount in Government securities pending its disposal.

<sup>1</sup> Subs. for "the insure shall" by s. 82 of the Insurance (Amendment) Act, 1941 (18 of 1941).

<sup>2</sup> Ins. by s. 18 of Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>3</sup> Subs. for "from the death of the insured, or the maturing of the policy by survival" by s. 18 of the Insurance (Amendment) Act, 1939 (11 of 1939).

## (Part II.—Special Provisions of Law.)

(6) The insurer shall transmit to the Court every notice of claim received after the making of the application under sub-section (3), and any payment required by the Court as costs of the proceedings or otherwise in connection with the disposal of the amount paid into Court shall as to the costs of the application under sub-section (3) be borne by the insurer and as to any other costs be in the discretion of the Court.

(7) The Court shall cause notice to be given to every ascertained claimant of the fact that the amount has been paid into Court, and shall cause notice at the cost of any claimant applying to withdraw the amount to be given to every other ascertained claimant.

(8) The Court shall decide all questions relating to the disposal of claims to the amount paid into Court.

VII of  
1913.  
VI of 1882,  
X of 1866,

48. (1) Where the insurer is a company incorporated under the Indian Companies Act, 1913, <sup>1</sup>[for under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby,] and carries on the business of life insurance, not less than one-fourth of the whole number of the directors of the company <sup>2</sup>[shall notwithstanding anything to the contrary in the Articles of Association of the company be elected in the prescribed manner by the holders of policies of life insurance issued by the company].

Directors  
of insurers  
being  
companies.

<sup>3</sup>(2) Only and all persons holding otherwise than as assignees policies of life insurance issued by the company of such minimum amount and having been in force for such minimum period as may be prescribed shall <sup>4</sup>[unless disqualified under sub-section (2A)] be eligible for election as directors under sub-section (1), and only and all persons holding policies of life insurance issued by the company and having been in force at the time of the election for not less than six months shall be eligible to vote at such elections:

Provided that the assignment of a policy to the person who took out the policy shall not disqualify that person for being eligible for election as a director under sub-section (1).

<sup>4</sup>[(2A) A person shall be ineligible for election as a director under sub-section (1) of any company if he is a director, officer, employee, or legal or technical adviser of that company, or of any other insurer, <sup>5</sup>\* \* \* and shall cease to be a director under sub-section (1) if after election he acquires any disqualification specified in this sub-section or no longer holds the qualifications required by sub-section (2):

<sup>1</sup> Ins. by s. 19 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>2</sup> Subs. by s. 33 of the Insurance (Amendment) Act, 1941 (13 of 1941), for certain original words.

<sup>3</sup> Ins. *ibid.*

<sup>4</sup> Ins. by s. 3 of the Insurance (Amendment) Act, 1944 (7 of 1944).

<sup>5</sup> The words "or is an insurance agent or employer of insurance agents" were rep. by s. 23 of the Insurance (Amendment) Act, 1946 (6 of 1946).



(Part II.—*Special Provisions of Law.*)

Provided that nothing in this sub-section shall disqualify a person who is an elected director under sub-section (1) and is not otherwise disqualified under this sub-section, from being re-elected:

Provided further that any director holding office at the commencement of the Insurance (Amendment) Act, 1944, shall not become ineligible to remain a director by virtue of this sub-section until the expiry of six months from the commencement of that Act.]

(3) The Central Government may, for such period, or to such extent and subject to such conditions as may be specified by it in this behalf, exempt from the operation of this section—

(a) any Mutual Insurance Company as defined in clause (a) of sub-section (1) of section 95, in respect of which the Superintendent of Insurance certifies that in his opinion owing to the conditions governing membership of the company or to the nature of the insurance contracts undertaken by it the application of the provisions of this sub-section to the company is impracticable, or

(b) any company in respect of which the Superintendent of Insurance certifies that in his opinion the company, having taken all reasonable steps to achieve compliance with the provisions of this section, has been unable to obtain the required number of directors with the required qualifications.]

<sup>1</sup>[<sup>2</sup>(4)] This section shall not take effect, in respect of any company in existence at the commencement of this Act, until the expiry of one year therefrom, and in respect of any company incorporated after the commencement of this Act, until the expiry of two years from the date of registration to carry on life insurance business.]

**Life Insurance agents not to be directors of life insurance companies.**

<sup>3</sup>[48A. No insurance agent who solicits or procures life insurance business, and no person acting on behalf of an insurer who for the purpose of life insurance business employs insurance agents, shall be eligible to be or remain a director of any insurance company carrying on life insurance business:

Provided that any director holding office at the commencement of the Insurance (Amendment) Act, 1946, shall not become ineligible to remain a director by reason of this section until the expiry of six months from the commencement of that Act.]

<sup>1</sup> Subs. by s. 19 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>2</sup> The original sub-section (2) was renumbered (4) by s. 33 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>3</sup> Ins. by s. 24 of the Insurance (Amendment) Act, 1946 (6 of 1946).

## (Part II.—Special Provisions of Law.)

<sup>1</sup>[49. No insurer, being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2, who carries on the business of life insurance or any other class or sub-class of insurance business to which section 18 applies shall, for the purpose of declaring or paying any dividend to share-holders or any bonus to policy-holders or of making any payment in service of any debentures, utilize directly or indirectly any portion of the life insurance fund or of the fund of such other class or sub-class of insurance business, as the case may be, except a surplus shown in the valuation balance-sheet in Form I as set forth in the Fourth Schedule submitted to the Superintendent of Insurance as part of the abstract referred to in section 15 as a result of an actuarial valuation of the assets and liabilities of the insurer; nor shall he increase such surplus by contributions out of any reserve fund or otherwise unless such contributions have been brought in as revenue through the revenue account applicable to that class or sub-class of insurance business on or before the date of the valuation aforesaid, except when the reserve fund is made up solely of transfers from similar surpluses disclosed by valuations in respect of which returns have been submitted to the Superintendent of Insurance under section 15 of this Act or to the Central Government under section 11 of the Indian Life Assurance Companies Act, 1912:

Restriction on dividends and bonuses.

Provided that payments made out of any such surplus in service of any debentures shall not exceed fifty per cent. of such surplus including any payment by way of interest on the debentures, and interest paid on the debentures shall not exceed ten per cent. of any such surplus except when the interest paid on the debentures is offset against the interest credited to the fund or funds concerned in deciding the interest basis adopted in the valuation disclosing the aforesaid surplus.]

50. An insurer shall, <sup>2</sup>[before the expiry of three months from the date on which the premiums in respect of a policy of life insurance were payable but not paid], give notice to the policy-holder informing him of the options available to him <sup>3</sup>[unless these are set forth in the policy]

Notice of options available to the assured on the lapsing of a policy.

51. Every insurer shall, on application by a policy-holder and on payment of a fee not exceeding one rupee, supply to the policy-holder certified copies of the questions put to him and his answers thereto contained in his proposal for insurance and in the medical report supplied in connection therewith.

Supply of copies of proposals and medical reports.

<sup>1</sup> Subs. by s. 34 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Subs. for "within three months of lapsing of a policy of life insurance", by s. 20 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>3</sup> Ins. by s. 35 of the Insurance (Amendment) Act, 1941 (13 of 1941).

## (Part II.—Special Provinces of Law.)

Prohibition  
of business  
on dividing  
principle.

52. <sup>1</sup>[(1)] No insurer shall after the commencement of this Act begin, or after three years from that date continue to carry on, any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on the results of a distribution of certain sums amongst policies becoming claims within certain time-limits, or on the principle that the premiums payable by a policy-holder depend wholly or partly on the number of policies becoming claims within certain time-limits:

Provided that nothing in this section shall be deemed to prevent an insurer from allocating bonuses to holders of policies of life insurance as a result of a periodical actuarial valuation either as reversionary additions to the sums insured or as immediate cash bonuses or otherwise:

Provided further that an insurer who continues to carry on insurance business on the dividing principle after the commencement of this Act shall withhold from distribution a sum of not less than forty per cent. of the premiums received during each year after the commencement of this Act in which such business is continued so as to make up the amount required for investment under section 27.

<sup>2</sup>[(2)] On the expiry of the period of three years referred to in sub-section (1), or on the insurer's ceasing before such expiry but at any time after the commencement of the Insurance (Amendment) Act, 1941, to carry on business on the dividing principle, the insurer shall forthwith cause an investigation to be made by an actuary, who shall determine the amount accumulated out of the contributions received from the holders of all policies to which the dividing principle applies and the extent of the claims of those policy-holders against the realisable assets of the insurer, and shall, before the expiration of six months from the date on which he is entrusted with the investigation, make recommendations regarding the distribution, whether by cash payments or by the allocation of paid up policies or by a combination of both methods, of such assets as he finds to appertain to such policy-holders; and the insurer shall, before the expiry of six months from the date on which the actuary makes his recommendations, distribute such assets in accordance with those recommendations. XIII of 1941.

(3) Where at any time prior to the commencement of the Insurance (Amendment) Act, 1941, an insurer has ceased to carry on business on the dividing principle, the insurer shall, before the expiration of two months from the commencement of that Act, report to the Superintendent of Insurance the measures taken or proposed by him for the distribution among holders of policies to which the dividing principle applies of the assets due to them; and the Superintendent of Insurance may either sanction such measures or refuse his sanction, and, if he refuses his sanction or if the insurer does not report to him as required by this sub-section, the provisions of sub-section (2) shall apply to the insurer forthwith. XIII of 1941.

<sup>1</sup> Section 52 was re-numbered as sub-section (1) of that section by s. 38 of the Insurance (Amendment) Act, 1941 (18 of 1941).

<sup>2</sup> *Ias.* by s. 86, *ibid.*

## WINDING UP.

Winding  
up by the  
Court.

53. (1) The Court may order the winding up in accordance with the Indian Companies Act, 1913, of any insurance company and the provisions of that Act shall, subject to the provisions of this <sup>1</sup>[Act] apply accordingly.

VII of  
1913.

(2) In addition to the grounds on which such an order may be based, the Court may order the winding up of an insurance company—

(a) if with the sanction of the Court previously obtained a petition in this behalf is presented by shareholders not less in number than one-tenth of the whole body of shareholders and holding not less than one-tenth of the whole share capital or by not less than fifty policy-holders holding policies of life insurance that have been in force for not less than three years and are of the total value of not less than fifty thousand rupees; or

(b) if the Superintendent of Insurance, who is hereby authorised to do so, applies in this behalf to the Court on any of the following grounds, namely:—

(i) that the company has failed to deposit or to keep deposited with the Reserve Bank of India the amounts required by section 7 <sup>2</sup>[or section 98],

(ii) that the company having failed to comply with any requirement of this Act has continued such failure <sup>3</sup>[or having contravened any provision of this Act has continued such contravention] for a period of three months after notice of such failure <sup>3</sup>[or contravention] has been conveyed to the company by the Superintendent of Insurance,

(iii) that it appears from the returns furnished under the provisions of this Act or from the results of any investigation made thereunder that the company is insolvent, or

(iv) that the continuance of the company is prejudicial to the interests of the policy-holders.

Unpaid-up  
Share  
capital.

<sup>4</sup>[53A. Notwithstanding anything contained in any other law, in ascertaining for any purpose of this Act the solvency or otherwise of an insurer, no account shall be taken of any assets of the insurer consisting of unpaid-up share capital.]

Voluntary  
winding up.

54. Notwithstanding anything contained in the Indian Companies Act, 1913, an insurance company shall not be wound up voluntarily except for the purpose of effecting an amalgamation or a re-construction of the company, or on the ground that by reason of its liabilities it cannot continue its business.

VII of  
1913.

<sup>1</sup> Subs. for "Chapter" by s. 37 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Ins. by s. 21 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>3</sup> Ins. by s. 37 of Act 18 of 1941.

<sup>4</sup> Ins. by s. 25 of Insurance (Amendment) Act, 1946 (6 of 1946).

## (Part II.—Winding up.)

Valuation  
of liabilities.

55. (1) In the winding up of an insurance company or in the insolvency of any other insurer the value of the assets and the liabilities of the insurer shall be ascertained in such manner and upon such basis as the liquidator or receiver in insolvency thinks fit, subject, so far as applicable, to the rule contained in the Sixth Schedule and to any directions which may be given by the Court.

(2) For the purposes of any reduction by the Court of the amount of the contracts of any insurance company the value of the assets and liabilities of the company and all claims in respect of policies issued by it shall be ascertained in such manner and upon such basis as the Court thinks proper having regard to the rule aforesaid.

(3) The rule in the Sixth Schedule shall be of the same force and may be repealed, altered or amended as if it were a rule made in pursuance of section 246 of the Indian Companies Act, 1913, and rules may be made under that section for the purpose of carrying into effect the provisions of this Act with respect to the winding up of insurance companies.

VII of  
1913.

Application  
of surplus  
assets of  
life insurance  
fund in liquidation  
or insolvency.

56. (1) In the winding up of an insurance company and in the insolvency of any other insurer the value of the assets and the liabilities of the insurer in respect of life insurance business shall be ascertained separately from the value of any other assets or any other liabilities of the insurer and no such assets shall be applied to the discharge of any liabilities other than those in respect of life insurance business except in so far as those assets exceed the liabilities in respect of life insurance business.

(2) In the winding up of an insurance company carrying on the business of life insurance or in the insolvency of any other insurer carrying on such business where any proportion of the profits of the insurer was before the commencement of the winding up or insolvency allocated to policy-holders, if, when the assets and liabilities of the insurer have been ascertained, there is found to be a surplus of assets over liabilities (hereinafter referred to as a *prima facie* surplus) there shall be added to the liabilities of the insurer in respect of the life insurance business an amount equal to such proportion of the *prima facie* surplus as is equivalent to such proportion of the profits allocated to shareholders and policy-holders as was allocated to policy-holders during the ten years immediately preceding the commencement of the winding up and the assets of the insurer shall be deemed to exceed his liabilities only in so far as those assets exceed those liabilities after such addition:

Provided that—

- (a) if in any case there has been no such allocation or if it appears to the Court that by reason of special circumstances it would be inequitable that the amount to be added to the liabilities

*(Part II.—Winding up.)*

of the insurer in respect of the life insurance business should be an amount equal to such proportion as aforesaid, the amount to be so added shall be such amount as the Court may direct, and

- (b) for the purpose of the application of this sub-section to any case where before the commencement of the winding up or insolvency a proportion of such profits as aforesaid of a branch only of the life insurance business in question has been allocated to policy-holders, the value of the assets and liabilities of the insurer in respect of that branch shall be separately ascertained in like manner as the value of his assets and liabilities in respect of the life insurance business was ascertained, and the surplus so found, if any, of assets over liabilities shall, for the purpose of determining the amount to be added to the liabilities of the insurer in respect of the life insurance business be deemed to be the *prima facie* surplus.

57. (1) Where the insurance business or any part of the insurance business of an insurance company has been transferred to another insurance company under an arrangement in pursuance of which the first mentioned company (in this section referred to as the secondary company) or the creditors thereof has or have claims against the company to which such transfer was made (in this section referred to as the principal company) then, if the principal company is being wound up by or under the supervision of the Court, the Court shall (subject as hereinafter mentioned) order the secondary company to be wound up in conjunction with the principal company and may by the same or any subsequent order appoint the same person to be liquidator for the two companies and make provision for such other matters as may seem to the Court necessary with a view to the companies being wound up as if they were one company.

Winding  
up second-  
ary  
companies.

(2) The commencement of the winding up of the principal company shall, save as otherwise ordered by the Court, be the commencement of the winding up of the secondary company.

(3) In adjusting the rights and liabilities of the members of the several companies among themselves the Court shall have regard to the constitution of the companies and to the arrangements entered into between the companies in the same manner as the Court has regard to the rights and liabilities of different classes of contributories in the case of the winding up of a single company or as near thereto as circumstances admit.

(4) Where any company alleged to be secondary is not in process of being wound up at the same time as the principal company to which it is alleged to be secondary, the Court shall not direct the secondary company to be wound up, unless, after hearing all objections (if any) that may be urged by or on behalf of the company against its being wound up, the Court is of opinion that the company is secondary to the principal company and that the winding up of the company in conjunction with the principal company is just and equitable.

*(Part II.—Winding up.)*

}

(5) An application may be made in relation to the winding up of any secondary company in conjunction with the principal company by any creditor of, or person interested in, the principal or secondary company.

(6) Where a company stands in the relation of a principal company to one insurance company and in the relation of a secondary company to some other insurance company or where there are several insurance companies standing in the relation of secondary companies to one principal company, the Court may deal with any number of such companies together or in separate groups as it thinks most expedient upon the principles laid down in this section.

Schemes  
for partial  
winding up  
of insu-  
rance  
companies.

58. (1) If at any time it appears expedient that the affairs of an insurance company in respect of any class of business comprised in the undertaking of the company should be wound up but that any other class of business comprised in the undertaking should continue to be carried on by the company or be transferred to another insurer, a scheme for such purposes may be prepared and submitted for confirmation of the Court in accordance with the provisions of this Act.

(2) Any scheme prepared under this section shall provide for the allocation and distribution of the assets and liabilities of the company between any classes of business affected (including the allocation of any surplus assets which may arise on the proposed winding up), for any future rights of every class of policy-holders in respect of their policies and for the manner of winding up any of the affairs of the company which are proposed to be wound up and may contain provisions for altering the memorandum of the company with respect to its objects and such further provisions as may be expedient for giving effect to the scheme.

(3) The provisions of this Act relating to the valuation of liabilities of insurers in liquidation and insolvency and to the application of surplus assets of the life insurance fund in liquidation or insolvency shall apply to the winding up of any part of the affairs of a company in accordance with the scheme under this section in like manner as they apply in the winding up of an insurance company, and any scheme under this section may apply with the necessary modifications any of the provisions of the Indian Companies Act, 1913, relating to the winding up of companies.

VII of  
1913.

(4) An order of the Court confirming a scheme under this section whereby the memorandum of a company is altered with respect to its object shall as respects the alteration have effect as if it were an order confirmed under section 12 of the Indian Companies Act, 1913, and the provisions of sections 15 and 16 of that Act shall apply accordingly.

VII of  
1913.

<sup>1</sup>[(5) When making an order confirming a scheme under this section, the Court may make such orders as it considers necessary for the disposal of so much of the deposit made by the company under section 7 or section

*(Part II.—Winding up.—Special provisions relating to  
External Companies.)*

98 as does not relate to the classes of insurance business, if any, which the company continues to carry on.]

59. In the windingup of an insurance company <sup>1</sup>[(otherwise than in a case to which section 58 applies)] and in the insolvency of any other insurer the liquidator or assignee as the case may be shall apply to the Court for an order for the return of the <sup>2</sup>[deposit made by the company or the insurer, as the case may be, under section 7 or section 98] and the Court shall on such application order a return of the deposit subject to such terms and conditions as it shall direct.

Return of deposits.

60. In the winding up of an insurance company for the purposes of a cash distribution of the assets and in the insolvency of any other insurer the liquidator or assignee as the case may be in the case of all persons appearing by the books of the company or other insurer to be entitled to or interested in the policies granted by the company or other insurer shall ascertain the value of the liability of the company or other insurer to each such person and shall give notice of such value to those persons in such manner as the court may direct and any person to whom notice is so given shall be bound by the value so ascertained unless he gives notice of his intention to dispute such value in such manner and within such time as may be specified by a rule or order of the Court.

Notice of policy values.

61. (1) Where an insurance company is in liquidation or any other insurer is insolvent the Court may make an order reducing the amount of the insurance contracts of the company or other insurer upon such terms and subject to such conditions as the Court thinks just.

Power of Court to reduce contracts of insurance.

(2) Where a company carrying on the business of life insurance has been proved to be insolvent, the Court may if it thinks fit in place of making a winding up order reduce the amount of the insurance contracts of the company upon such terms and subject to such conditions as the Court thinks fit.

(3) Application for an order under this section may be made either by the liquidator or by or on behalf of the Company or by a policy-holder, or by the Superintendent of Insurance and the Superintendent of Insurance and any person whom the Court thinks likely to be affected shall be entitled to be heard on any such application.

SPECIAL PROVISIONS RELATING TO EXTERNAL COMPANIES.

62. Where, by the law or practice of any country outside India in which an insurer carrying on insurance business in <sup>3</sup>[the Provinces] is constituted, incorporated or domiciled, insurance Companies incorporated in <sup>3</sup>[the Provinces] are required as a condition of carrying on insurance business in that country to comply with any special requirement whether as to the keeping of deposits of assets in that country or otherwise which is not imposed upon insurers of that country under this Act, the

Power of Central Government to impose reciprocal disabilities on non-Indian companies.

<sup>1</sup> Ins. by s. 27 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>2</sup> Subs. for "deposit made by the company under section 7" by s. 22 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>3</sup> Subs. by the A. O. 1946 for "British India".



(Part II.—*Special Provisions relating to  
External Companies.*)

Central Government shall, if satisfied of the existence of such special requirement, by notification in the official Gazette, direct that the same requirement, or requirements as similar thereto as may be, shall be imposed upon insurers of that country as a condition of carrying on the business of the insurance in <sup>1</sup>[the Provinces].

Particulars  
to be filed  
by insurers  
established  
outside the  
Provinces.

63. Every insurer, having his principal place of business or domicile outside <sup>1</sup>[the Provinces], who establishes a place of business within <sup>1</sup>[the Provinces], or appoints a representative in <sup>1</sup>[the Provinces] with the object of obtaining insurance business, shall within three months from the establishment of such place of business or the appointment of such <sup>2</sup>[representative], file with the Superintendent of Insurance—

- (a) a certified copy of the charter, statutes, deed of settlement or memorandum and articles or other instrument constituting or defining the constitution of the insurer, and, if the instrument is not written in the English language, a certified translation thereof,
- (b) a list of the directors, if the insurer is a company,
- (c) the name and address of some one or more persons resident in <sup>1</sup>[the Provinces] authorised to accept on behalf of the insurer service of process and any notice required to be served on the insurer, together with a copy of the power of attorney granted to him,
- (d) the full address of the principal office of the insurer in <sup>1</sup>[the Provinces].
- (e) a statement of the classes of insurance business to be carried on by the insurer, and
- (f) a statement verified by an affidavit setting forth the special requirements, if any, of the nature specified in section 62 imposed in the country of origin of the insurer on Indian nationals,

and, in the event of any alteration being made in the address of the principal office or in the classes of business to be carried on, or in any instrument here referred to, or in the name of any of the persons here referred to, or in the matters specified in clause (f) above, the company shall forthwith furnish to the Superintendent of Insurance particulars of such alteration.

Books to  
be kept by  
insurers  
established  
outside the  
Provinces.

64. Every insurer having his principal place of business or domicile outside <sup>1</sup>[the Provinces] shall keep at his principal office in <sup>1</sup>[the Provinces] such books of account, registers and documents as will enable the accounts, statements and abstracts which he is required under this Act to furnish to the Superintendent of Insurance in respect of the insurance business transacted by him, in India to be compiled and, if necessary, checked by the Superintendent of Insurance.

<sup>1</sup> Subs. by the A. O. 1948 for "British India".

<sup>2</sup> Subs. for "agent" by s. 28 of the Insurance (Amendment) Act, 1939 (11 of 1939).

## (Part III.—Provident Societies.)

## PART III.

## PROVIDENT SOCIETIES.

1[65. (1) In this Part "provident society" means, a person who, or a body of persons (whether corporate or unincorporate) which, not being an insurer registered for the time being under Part II of this Act, carries on the business of insuring the payment, on the happening of any of the contingencies mentioned in sub-section (2), of—

Definition of 'provident society.'

(a) an annuity of or equivalent to <sup>2</sup>[one hundred] rupees or less, payable for an uncertain period, or

(b) a gross sum of <sup>3</sup>[nine hundred] rupees or less, whether paid or payable in a lump sum or in two or more instalments over a certain period,

exclusively in both cases (a) and (b) of any profit or bonus not being a guaranteed profit or bonus.

*Explanation.*—For the purposes of this sub-section, a period is "certain" if its duration is ascertainable in advance and "uncertain" if its duration is not so ascertainable.

(2) The contingencies referred to in sub-section (1) are the following, namely:—

(a) the birth, marriage or death of any person or the survival by a person of a stated or implied age or contingency;

(b) failure of issue;

(c) the occurrence of a social, religious or other ceremonial occasion;

(d) loss of or retirement from employment;

(e) disablement in consequence of sickness or accident;

(f) the necessity of providing for the education of a dependent;

(g) any other contingency which may be prescribed or which may be authorised by the Provincial Government with the approval of the Central Government.

(3) For the purposes of sub-sections (1) and (2)—

(a) contracts entered into before the commencement of this Act shall not be taken into account;

(b) two or more policies issued to one person shall, for the purposes of determining whether the limits fixed by sub-section (1) have or have not been exceeded, be deemed to be one policy if the contingencies on the happening of which the sums are payable under the policies (whether the contingencies be the same or different) relate to one person only, whether he be the policy-holder or some other person.

<sup>1</sup> Subs. by s. 10 of the Insurance (Amendment) Act, 1940 (20 of 1940) (with retrospective effect) for the original section.

<sup>2</sup> Subs. by s. 28 of the Insurance (Amendment) Act, 1946 (6 of 1946) for "fifty".

<sup>3</sup> Subs., *ibid.* for "five hundred".

## (Part III.—Provident Societies.)

(4) Every person or body of persons for the time being registered as a provident society under the Provident Insurance Societies Act, 1912, and every person or body of persons for the time being registered as a provident society under this Act shall be deemed to be a provident society for all the purposes of this Act. V of 1912.

(5) If any question arises whether any person or body of persons is or is not a provident society within the meaning of this section, the Superintendent of Insurance shall decide the question and his decision shall be final.]

Restrictions on provident societies.

<sup>1</sup>[66. No provident society shall undertake any form of insurance not falling within the limits fixed by sub-section (1) of section 65, nor shall any provident society be eligible to be registered under section 3.]

Name.

67. No provident society established after the commencement of this Act shall adopt as its name, and no provident society established before the commencement of this Act shall continue after the expiry of six months from the commencement thereof to use as its name, any combination of words which fails to include the word "provident" or which includes the word "life".

Insurable interest.

68. No provident society shall receive any premium or contribution for insuring money to be paid to any person other than the person paying such premium or contribution or the wife, husband, child, grand-child, parent, brother or sister, nephew or niece of such a person.

Dividing business.

69. (1) No provident society shall carry on any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on <sup>2</sup>[the results of a distribution of certain sums amongst policies becoming claims within certain time-limits, or on the principle that the premiums payable by a policy-holder depend wholly or partly on the number of policies becoming claims within certain time-limits].

(2) The Superintendent of Insurance shall, as soon as possible, take steps to have any provident society which carries on business on the dividing principle wound up:

Provided that, where any such provident society in existence at the commencement of this Act applies within three months of such commencement to the Superintendent of Insurance for permission to continue carrying on its business with a view meanwhile to reorganise its business in accordance with the provisions of this Act, the Superintendent of Insurance may at his discretion, with due regard to the past history of the society, permit the society to continue business for a period not exceeding two years from the date of receipt of such permission, so however that no new business on the dividing principle is undertaken by the society.

<sup>1</sup> Subs. by s. 10 of the Insurance (Amendment) Act, 1940 (20 of 1940) (with retrospective effect) for the original section.

<sup>2</sup> Subs. for "the results of a distribution, amongst policies maturing for payment within certain time-limits, of certain sums" by s. 38 of the Insurance (Amendment) Act, 1941 (18 of 1941).

## (Part III.—Provident Societies.)

XIII of  
1941.

<sup>1</sup>[(3) Where after the commencement of the Insurance (Amendment) Act, 1941, a provident society is to be wound up in pursuance of this section, or where, whether before or after the commencement of that Act, a provident society ceases to carry on business on the dividing principle, the provisions of sub-section (2) and sub-section (3) of section 52 shall, so far as may be, apply in like manner as they apply to an insurer ceasing to carry on business on the dividing principle.]

V of 1912.

70. (1) No provident society except a provident society registered under the provisions of the Provident Insurance Societies Act, 1912, shall receive any premium or contribution until it has obtained from the Superintendent of Insurance a certificate of registration.

Regi-stration.

(2) Every application for registration shall be accompanied by—

VII of  
1913.

VI of 1932,

X of 1906.

(a) a certified copy of the rules of the society, and when the society is a company incorporated under the Indian Companies Act, 1913, <sup>2</sup>[or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby,] a certified copy of the Memorandum and Articles of Association or where the society is not such a company a certified copy of the deed of constitution of the society ;

(b) the names and addresses of the proprietors or directors, and the managers of the society <sup>2</sup>[the full address of the registered office of the society, the full address of the principal office of the society in <sup>3</sup>[the Provinces] the name of the manager at such office and the name and address of some one or more persons resident in <sup>3</sup>[the Provinces] authorised to accept any notice required to be served on the society];

(c) a certificate from the Reserve Bank of India that the initial deposit referred to in section 73 has been made ; <sup>4</sup> \* ;

(d) a declaration verified by an affidavit <sup>5</sup>[made by the principal officer of the society authorised in that behalf] that the minimum working capital required by section 72 is available ; <sup>6</sup>and

(e) the <sup>7</sup>[receipt showing payment in the prescribed manner of the prescribed fee] for registration being not more than two hundred rupees].

(3) The Superintendent of Insurance may refuse to issue a certificate of registration until he is satisfied that the rules of the society comply with the provisions of this Act and that the <sup>8</sup>[society complies with the provisions of sections 67, 71, 72, 73 and 73A] but if he is so satisfied he shall register the society and its rules.

<sup>1</sup> Ins. by s. 38 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Ins. by s. 39, *ibid*.

<sup>3</sup> Subs. by the A.O. 1948 for "British India".

<sup>4</sup> The word "and" was rep. by s. 39 of Act 13 of 1941.

<sup>5</sup> Ins. by s. 29 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>6</sup> Ins. by s. 39 of Act 13 of 1941.

<sup>7</sup> Subs. for "prescribed fee" by s. 29 of Act 6 of 1946.

<sup>8</sup> Subs. for "minimum working capital required by section 72" by s. 29 of Act 6 of 1946.

## (Part III.—Provident Societies.)

(4) The Superintendent of Insurance may, after giving previous notice in writing in such manner as he thinks fit specifying the grounds for the proposed cancellation, and allowing the society concerned an opportunity of being heard, apply to the Court and obtain sanction for cancellation of the registration made under this section or made under the provisions of the Provident Insurance Societies Act, 1912,—

VII of 1912

(a) if he is satisfied <sup>1</sup>[from the returns furnished under the provisions of this Act or] as the result of an inquiry made under section 87—

(i) that the society is insolvent or is likely to become so, or

(ii) that the business of the society is conducted fraudulently or not in accordance with the rules thereof, or that it is in the interests of the policy-holders that the society should cease to carry on business,

(b) if the initial deposit or any of the further deposits required by section 73 has not been made, or

(c) If the society, having failed to comply with any requirement <sup>2</sup>[or having contravened any provision] of this Act, has continued such failure <sup>2</sup>[or contravention], for a period of one month after notice of such failure <sup>2</sup>[or contravention] has been conveyed to the society by the Superintendent of Insurance:

Provided that the Superintendent of Insurance may, if he thinks fit, instead of applying for cancellation of the registration under sub-clause (i) of clause (a) of this sub-section make a recommendation to the Court that the contracts of the society should be reduced in such manner and subject to such conditions as he may indicate:

<sup>2</sup>[Provided further that the Superintendent of Insurance may, without previous notice and without application to the Court for sanction,—

(a) cancel the registration of a provident society which has failed to have its registration renewed, or

(b) cancel, on such terms and conditions as he thinks fit, the registration of any provident society which applies to him for such cancellation if he is satisfied that the society has ceased to carry on insurance business and that all its liabilities in respect of insurance policies are either satisfied or otherwise provided for.]

<sup>1</sup>[or

(a) cancel the registration of a provident society if he has reason to believe that any claim upon the society arising in India under any policy of insurance remains unpaid for three months after final judgment in regular course of law.]

<sup>1</sup> Ins. by s. 29 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>2</sup> Ins. by s. 89 of the Insurance (Amendment) Act, 1941 (18 of 1941).

## (Part III.—Provident Societies.)

<sup>1</sup>[(5) When a registration is cancelled the provident society shall not, after the cancellation has taken effect, enter into any new contracts of insurance, but all rights and liabilities in respect of contracts of insurance entered into by it before such cancellation takes effect shall, subject to the provisions of section 88, continue as if the cancellation had not taken place.

(6) Where a registration is cancelled under clause (b) of sub-section (4), <sup>2</sup>[or clause (c) of the second proviso to that sub-section.] or because the society has failed to have its registration renewed, the Superintendent of Insurance may at his discretion revive the registration if the provident society, within six months from the date on which the cancellation took effect, makes the deposits required by section 73 <sup>2</sup>[or satisfies the Superintendent of Insurance that no claim upon it such as is referred to in the said clause (c) remains unpaid] or has had an application under sub-section (3) of section 70A accepted, as the case may be, and complies with any directions which may be given to it by the Superintendent of Insurance.]

<sup>3</sup>(7) The Superintendent of Insurance may, on payment of the prescribed fee which shall not exceed five rupees, issue a duplicate certificate of registration to replace a certificate lost, destroyed or mutilated, or in any other case where he is of opinion that the issue of a duplicate certificate is necessary.]

Renewal of  
registration.

<sup>3</sup>[70A. (1) Every provident society registered under this Act, or under the Provident Insurance Societies Act, 1912, shall have its registration renewed annually for each period of twelve months after that ending on the 30th day of June, 1942.

V of 1912

(2) An application for the renewal of a registration shall be made by the society to the Superintendent of Insurance before the 30th day of June preceding the period for which renewal is sought, and shall be accompanied as provided in sub-section (3) by evidence of payment of the prescribed fee which shall not exceed two hundred rupees but may vary according to the volume of insurance business done by the society.

(3) The prescribed fee for the renewal of a registration for any year shall be paid into the Reserve Bank of India, or, where there is no office of that Bank, into the Imperial Bank of India acting as the agent of that Bank, or into any Government treasury, and the receipt shall be sent along with the application for renewal of the registration.

(4) If a provident society fails to apply for renewal of registration before the date specified in sub-section (2) the Superintendent of Insurance may, so long as he has taken no action under section 88 to have the society wound up, accept an application for renewal of registration on receipt from the society of the fee payable with the application and such penalty, not exceeding the prescribed fee payable by the society, as he may require.

<sup>1</sup>Ins. by s. 39 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup>Ins. by s. 29 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>3</sup>Ss 70A and 70B ins. by s. 40 of Act 13 of 1941.

## (Part III.—Provident Societies.)

(5) The Superintendent of Insurance shall, on being satisfied that the society has fulfilled the requirements of this section, renew the registration and grant it a certificate of renewal of registration.

Supplementary information and reports of alterations in particulars furnished with application for registration.

**70B.** (1) Every provident society registered under section 70 before the commencement of the Insurance (Amendment) Act, 1941, shall, before the expiration of three months from the commencement of the Insurance (Amendment) Act, 1941, furnish to the Superintendent of Insurance such particulars in addition to those already supplied for the purpose of obtaining registration as are required by sub-section (2) of section 70 of this Act as amended by the Insurance (Amendment) Act, 1941.

XIII of 1941.

XIII of 1941.

XIII of 1941.

(2) Every provident society registered under the provisions of the Provident Insurance Societies Act, 1912, shall, before the expiration of three months from the commencement of the Insurance (Amendment) Act, 1941, furnish to the Superintendent of Insurance so far as it has not already done so the documents and information required by clauses (a) and (b) of sub-section (2) of section 70 to accompany an application by a provident society for registration under that section.

V of 1912

XIII of 1941.

(3) When any alteration occurs or is made which affects any of the matters which are required under the provisions of sub-section (2) of section 70 to accompany an application by a provident society for registration under that section, or are to be furnished to the Superintendent of Insurance under this section, the provident society shall furnish forthwith to the Superintendent of Insurance full particulars duly authenticated of such alteration.]

Certain provisions of part II to apply to provident societies.

[71. The provisions of sections 20, 32, 46 and 53A shall apply to provident societies as they apply to insurers, and in such application references to shareholders of an insurer shall be construed as references to members of a provident society :

Provided that a provident society may charge a fee not exceeding one rupee for supplying a copy of any document referred to in sub-section (2) of section 20.]

Working Capital

**72.** No provident society <sup>2</sup>\* \* \* \* shall be registered unless it has a paid up capital sufficient to provide as working capital a net sum of not less than five thousand rupees exclusive of deposits made under this Act and exclusive in the case of a company of any expenses incurred in connection with the formation of the Company.

Deposits.

**73.** (1) Every provident society shall, if established before the commencement of this Act within one year from such commencement, or, if established after the commencement of this Act before the society applies for registration under section 70, deposit and keep deposited with the

<sup>1</sup> Subs. for the original section by s. 30 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>2</sup> The words "established after the commencement of this Act" were rep. by s. 41 of the Insurance (Amendment) Act, 1941 (18 of 1941).

## (Part III.—Provident Societies.)

Reserve Bank of India in one of the offices in India of the Bank, for and on behalf of the Central Government, cash or approved securities amounting at the market value of the securities on the date of deposit to five thousand rupees, and shall thereafter <sup>1</sup>[make in each calendar year] a further deposit amounting to not less than one-fifth of the <sup>2</sup>[premium income for the preceding calendar year as shown in the revenue account of the society] (including admission fees and other fees received by the society) until the total amount so deposited and kept is fifty thousand rupees.

(2) The provisions of sub-sections (8), (9), <sup>3</sup>[(9A), (9B)] and (10) of section 7 and of sub-section (1) of section 8 <sup>4</sup>[and of section 9] shall apply to the deposits made under this section as they apply to deposits made by an insurer.

<sup>4</sup>[73A. (1) A provident society shall not be registered by a name identical with that by which an insurer or another provident society in existence is already registered, or so nearly resembling that name as to be calculated to deceive, except when the provident society in existence is in the course of being dissolved and signifies its consent, or the insurer in existence signifies his consent, to the Superintendent of Insurance. **Restriction on name of provident society.**

(2) If a provident society, through inadvertence or otherwise, is without such consent as aforesaid registered by a name identical with that by which an insurer or another provident society already in existence is registered, or so nearly resembling it as to be calculated to deceive, the first-mentioned society shall, if called upon to do so by the Superintendent of Insurance on the application of the insurer or the second-mentioned society, change its name within a time to be fixed by the Superintendent of Insurance :

Provided that nothing in this section shall apply to any provident society carrying on business before the commencement of the Insurance (Amendment) Act, 1946.]

74. (1) Every provident society <sup>5</sup>\* \* \* \* shall in its rules set **Rules.** forth—

- (a) the name, the object and the location of the registered office of the society;
- (b) the contingencies or classes of contingency on the happening of which money is to be paid;
- (c) the conditions to be complied with before, and the payments to be made on, admission to the society;
- (d) the rates of premium or contribution, and the periods for which or the times at which premiums or contributions are payable,

<sup>1</sup> Subs. for the words "make each year" by s. 25 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>2</sup> Subs. by s. 3 of the Insurance (Amendment) Act, 1946 (6 of 1946) for "gross premium income for the preceding calendar year". The words in italics were subs. for the original words "income for the year" by s. 25 of Act 11 of 1939.

<sup>3</sup> Ins. by s. 11 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>4</sup> Ins. by s. 32 of Act 6 of 1946.

<sup>5</sup> The words "established after the commencement of this Act" were rep. by s. 42 of the Insurance (Amendment) Act, 1941 (13 of 1941).



*(Part III.—Provident Societies.)*

- (e) the maximum amount payable to a subscriber or policy-holder;
- (f) the nature and amounts of the benefits provided for by the society;
- (g) the circumstances in which a bonus may be paid to a policy-holder;
- (h) the nature of the evidence required for the proof of the happening of any contingency on which money is to be paid;
- (i) the circumstances in which policies may be forfeited or renewed or the whole or a part of the premiums paid on a policy may be returned, or a surrender value of the policy may be granted;
- (j) the penalties for delay in paying or failure to pay premiums or contributions;
- (k) the proportion of the annual income of the society which may be disbursed on and the provisions to be made for meeting the expenses of the management of the society;
- (l) the person or persons who or the authority which shall have power to invest the funds of the society;
- (m) the provisions for appointment of auditors and their remuneration;
- (n) the procedure to be adopted in altering the rules of the society;
- (o) unless these are provided for in the articles of association of a society which is a company incorporated under the Indian Companies Act, 1913, [or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby,]—
  - (i) the mode of appointment and removal, the qualification and the powers of a director, manager, secretary or other officer of the society;
  - (ii) the manner of raising additional capital; and
  - (iii) the provisions for the holding of general meetings of the members and policy-holders and for the powers to be exercised and the procedure to be followed thereat; and
- (p) such other matters as may be prescribed.

VII of  
1913.  
VI of 1882;  
X of 1866.

(2) Where the rules of any provident society registered under the Provident Insurance Societies Act, 1912, fail to comply with the provisions of this section the society shall, before the expiry of twelve months from the commencement of this Act, amend the rules so as to comply with these provisions.

V of 1912.

**Amend-  
ment of  
rules.**

75. (1) No amendment of any rule of a provident society shall be valid until it has been sent to the Superintendent of Insurance and has been registered by him.

<sup>1</sup> Ins. by s. 42 of the Insurance (Amendment) Act, 1941 (18 of 1941).

## (Part III.—Provident Societies.)

(2) The Superintendent of Insurance on being satisfied that the proposed amendment is not contrary to the provisions of this Act shall, unless he is of opinion that the amendment unfairly affects the rights of existing members or policy-holders of the society, issue to the society an acknowledgment of the registration of the amended rule.

76. Every provident society shall on demand deliver free of cost to any member of the society a copy of the rules of the society and to any person other than a member a copy of such rules on the payment of a sum not exceeding one rupee.

Supply  
copy of  
rules.

77. Every provident society <sup>1</sup>[shall have in <sup>2</sup>[the Provinces] a principal office] (on the outside of which it shall keep displayed its name in a conspicuous position in legible characters) to which all communications and notices may be addressed, and shall give notice to the Superintendent of Insurance of any change in the location thereof within twenty-eight days of its occurrence.

Registered  
office.

78. Where any notice, advertisement or other official publication of a provident society contains a statement of the amount of the authorised capital of the society, the publication shall also contain a statement of the amount of the capital which has been subscribed and the amount paid up.

Publication  
of autho-  
rised capi-  
tal to con-  
tain also  
subscribed  
and paid  
up capital.

79. Every provident society <sup>3</sup>[shall keep at its principal office in <sup>4</sup>[the Provinces]—

Registers  
and books.

<sup>4</sup>[(a) such registers in such form as may be prescribed;]

<sup>5</sup>[(b)] a cash book in which shall be entered separately for each class of contingency separately specified in section 65 all sums received and expended by the society and the matters in respect of which the receipt or expenditure takes place;

<sup>6</sup>[(c)] a ledger.

<sup>7</sup>[(d)] a journal.

80. (1) Every provident society shall at the expiry of the calendar year prepare a revenue account and balance-sheet in the prescribed form verified in the prescribed manner, together with a report on the general state of the society's affairs and shall cause the revenue account and balance-sheet to be audited by an auditor, and the auditor shall so far as may be in the audit of a provident society have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities imposed on, an auditor of companies by section 145 of the Indian Companies Act, 1913.

Revenue  
account  
balance-  
sheet and  
annual  
statements.

VII of  
1913,

<sup>1</sup> Subs. for "shall have an office" by s. 35 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Subs. by the A. O. 1946 for "British India".

<sup>3</sup> Subs. for "shall keep at its registered office" by s. 44 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>4</sup> Subs. for the original clauses (a) to (d) by s. 44 of Act 13 of 1941.

<sup>5</sup> The original clauses (e), (f) and (g) were re-lettered (b), (c) and (d) respectively.

*ibid.*

## (Part III.—Provident Societies.)

(2) Every provident society shall at the expiry of the calendar year prepare with respect to that year—

- (a) a statement showing separately for each class of contingency separately specified in section 65—
  - (i) the number of new policies effected, the total amount insured thereby and the total premium income received in respect thereof and the number of existing policies discontinued during the year with the total amount insured thereby; and
  - (ii) the total amount of claims made and the total amount paid in satisfaction thereof;
- (b) a statement showing details of every insurance effected on a life other than the life of the person insuring; and
- (c) a statement showing the total amount paid as allowances to agents and canvassers.

(3) Until the expiry of two years from the commencement of this Act this section <sup>1</sup>[and section 73] shall apply to provident societies registered before the commencement of this Act under the Provident Insurance Societies Act, 1912, as if the reference to the calendar year were a reference to either the financial year or the calendar year.

V of 11

**Actuarial  
report and  
abstract.**

81. (1) Every provident society shall once in every five years or at such shorter intervals as may be laid down by the rules of the society cause an investigation to be made <sup>2</sup>[as at the last day of a calendar year] into its financial condition including the valuation of its liabilities and assets by an actuary.

(2) The report of the actuary shall contain an abstract in which shall be stated—

- (a) the general principles adopted in the valuation, including the method by which the valuation age of lives was ascertained,
- (b) the rate at each age of the mortality and any other factor assumed and the annuity values used in valuation,
- (c) the reserve values held against policies effected,
- (d) the rate of interest assumed, and
- (e) the provision made for expenses,

and shall have appended to it a certificate signed by a principal officer of the society that all material necessary for proper valuation has been placed at the disposal of the actuary and that full and accurate particulars of every policy under which there is a liability either actual or contingent have been furnished to the actuary for the purpose of the investigation.

(3) If the actuary finds that the financial condition of the society is such that no surplus exists for distribution as bonus to the policy-holders

<sup>1</sup> Ins. by s. 26 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>2</sup> Ins. by s. 33 of the Insurance (Amendment) Act, 1940 (6 of 1940).

## (Part III.—Provident Societies.)

or as dividend to the shareholders, he shall state in his report whether in his opinion the society is insolvent and, if so, whether it should be wound up or not, and the extent to which in his opinion existing contracts should be modified or existing rates of premium should be adjusted to make good the deficiency in the assets.

Submission  
of returns  
to Superin-  
tendent of  
Insurance.

82. (1) The revenue account and balance-sheet with the auditor's report thereon and the report on the general state of the society's affairs referred to in sub-section (1) of section 80, <sup>1</sup>[shall be printed and four copies of these and of the statements referred to], in sub-section (2) of section 80, shall be furnished as returns to the Superintendent of Insurance <sup>2</sup>[within six months] from the end of the period to which they relate <sup>3</sup>\* \* \* \* \*.

(2) All the material necessary for the proper valuation of the liabilities of the society under the provisions of section 81 shall be placed at the disposal of the actuary within three months from the end of the period to which such material relates, and the report and abstract referred to in section 81 shall be furnished as a return to the Superintendent of Insurance within a further period of three months.

(3) <sup>4</sup>[The provisions of sub-section (2) of section 15 relating to the copies therein referred to shall apply to the returns referred to in <sup>5</sup>[sub-section (1) of this section] and] the provisions of section 17 shall apply to the accounts and balance-sheet of a provident society being a company incorporated under the Indian Companies Act, 1913, <sup>6</sup>[or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby.] as they apply to the accounts and balance-sheet of an insurer, <sup>7</sup>[and the Superintendent of Insurance may exercise, in respect of returns made by a provident society and in respect of an investigation or valuation to which section 81 refers, the same powers as are exercisable by him under section 21 and section 22, respectively, in the case of an insurer].

VII of  
1913.  
VI of 1882.  
X of 1866.

Actuarial  
examina-  
tion of  
schemes.

83. (1) Every provident society, <sup>7</sup>[registered] after the commencement of this Act, shall cause every scheme of insurance which it proposes to put into operation, and every provident society registered before the commencement of this Act under the provisions of the Provident Insurance Societies Act, 1912 <sup>8</sup>[shall cause any scheme which it proposes to put into operation for the first time], after such commencement to be examined by an actuary, and shall not receive any premium or contribution in connection with the scheme until the actuary has certified <sup>9</sup>[that the rates, advantages, terms and conditions of the scheme are workable and sound], and such certificate has been forwarded to the Superintendent of Insurance.

V of 1912.

<sup>1</sup> Subs. for "and the statements referred to" by s. 45 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Subs. for "within three months", *ibid.*

<sup>3</sup> Certain words rep. by s. 34 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>4</sup> Ins. by s. 45 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>5</sup> Subs. for "sub-section (1) of this sub-section" by s. 8 and Sch. II of the Repealing and Amending Act, 1942 (25 of 1942).

<sup>6</sup> Ins. by s. 27 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>7</sup> Subs. for "established" by s. 46 of Act 13 of 1941.

<sup>8</sup> Subs. for "shall cause any new scheme which it proposes to put into operation", *ibid.*

<sup>9</sup> Subs. for "that the scheme is sound," *ibid.*

## (Part III.—Provident Societies.)

(2) The provisions of sub-section (1) shall apply to any alteration of a scheme already in operation but the Superintendent of Insurance may, if he is of opinion that the alteration unfairly affects the interests of existing policy-holders, prohibit the alteration, and, if he does so, the society shall not put the altered scheme into operation, unless it first discharges to the satisfaction of the Superintendent of Insurance all its liabilities to those of the existing policy-holders who dissent from the alteration.

(3) Every provident society registered before the commencement of this Act under the provisions of the Provident Insurance Societies Act, 1912, shall, as soon as may be and in any event before the expiry of six months from the commencement of this Act, submit all schemes of insurance which the society has in operation at the commencement of this Act to examination by an actuary <sup>1</sup>[and shall, before the expiration of six months from the commencement of the Insurance (Amendment) Act, 1941, send the report of the actuary], thereon to the Superintendent of Insurance.

V of 1912.

XIII of 1941.

(4) The report of the actuary shall state in respect of each scheme whether <sup>2</sup>[the rates, advantages, terms and conditions are workable and sound], and, where no actuarial report such as is referred to in section 81 has been made within the two years preceding the examination, the report shall also state whether the assets of the society are sufficient to meet its liabilities under the existing schemes, and if not, how in the opinion of the actuary the existing contracts should be modified.

<sup>3</sup>(5) If the rates, advantages, terms and conditions of any scheme are not reported by the actuary to be workable and sound, the Superintendent of Insurance shall give notice to the society prohibiting the scheme, and the society shall not after its receipt of such notice enter into any new contract of insurance under the scheme, but all rights and liabilities in respect of contracts of insurance entered into by the society before receipt of the notice shall, subject to the provisions of sub-section (6), continue as if the notice had not been given.]

(6) Where a scheme is <sup>4</sup>[prohibited] under the provisions of sub-section (5) the society shall, where its assets are sufficient to meet all existing liabilities, set apart out of its assets the sum sufficient in the opinion of the actuary to meet the liabilities incurred under the scheme so <sup>5</sup>[prohibited], and, where its assets are not so sufficient, within three months from the date of the <sup>6</sup>[prohibition], apply to the Court for a modification of its existing contracts or failing such modification for the winding up of the society.

Separation  
of accounts  
and funds.

64. Where a provident society effects policies of insurance in connection with more than one of the classes of contingency separately specified in <sup>7</sup>[sub-section (2) of] section 65, the receipts and payments in respect of each such class shall be recorded in a separate account in the cash book kept in accordance with section 70.

<sup>1</sup> Subs. for "and shall send the report of the actuary" by s. 46 of the Insurance (Amendment) Act, 1941 (18 of 1941).

<sup>2</sup> Subs. for "it is actuarially sound", *ibid.*

<sup>3</sup> Subs., *ibid* for the original sub-section.

<sup>4</sup> Subs. for "discontinued", *ibid.*

<sup>5</sup> Subs. for "discontinuance", *ibid.*

<sup>6</sup> Ins. by s. 12 of the Insurance (Amendment) Act, 1940 (20 of 1940).

## (Part III.—Provident Societies.)

II of 1882.

Investment  
of funds.

85. (1) Every provident society shall, unless it already holds invested in <sup>1</sup>[approved] securities or securities mentioned or referred to in clauses (c) and (d) of section 20 of the Indian Trusts Act, 1882, not less than fifty per cent. of the total assets of the society, <sup>2</sup>invest in such securities every increase that takes place in those assets and in that part of those assets which is held in cash as soon as practicable after the increase takes place and in any case within six months of its taking place], until the total amount so invested amounts to not less than fifty per cent. of the total assets of the society, and shall thereafter keep invested in such securities not less than fifty per cent. of the total assets of the society.

<sup>3</sup>[Provided that for the purpose of determining] the amount to be invested under this sub-section, any deposit made in cash under section 73 shall be taken into account as if such cash were Government securities amounting at the market value of the securities on the date the deposit was made to the total deposited in cash.]

(2) No funds or investments of a provident society except a deposit made under section 73 <sup>4</sup>[or under the law of any state or country relating to insurance] shall be kept otherwise than in the name of the society <sup>5</sup>[or in the name of a public officer approved by the Central Government].

(3) No loan shall be made out of the assets of a provident society to <sup>6</sup>[any director, manager, managing agent, auditor, actuary, officer of partner of the society], except on the security of a policy of insurance held in the society and within its surrender value and no such loan shall be made to any concern of which <sup>7</sup>[a director, manager, managing agent, actuary, officer or partner of the society is a director, manager, managing agent, actuary, officer or partner].

<sup>8</sup>[Provided that nothing in this sub-section shall apply to loans made by a provident society to a banking company :

Provided further that where any event occurs giving rise to circumstances, the existence of which at the time of the grant of any subsisting loan would have made such grant a contravention of this sub-section, such loan shall, notwithstanding any contract to the contrary, be repaid within three months from the occurrence of such event or from the commencement of the Insurance (Amendment) Act, 1946, whichever is later; and in case of default, the director, manager, auditor, actuary, or partner concerned shall, without prejudice to any other penalty which he may incur, cease to hold office in the society on the expiry of the said three months.]

XX of 1940

<sup>9</sup>[(3A) Any loan prohibited under sub-section (3), made before and outstanding at the commencement of the Insurance (Amendment) Act, 1940, shall be repaid before the 1st day of January, 1941, and in case of

<sup>1</sup> Subs. for "Government" by s. 35 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>2</sup> Subs. for "invest all surplus assets in such securities" by s. 47 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>3</sup> Ins., *ibid.*

<sup>4</sup> Ins. by s. 35 of Act 6 of 1946.

<sup>5</sup> Ins. by s. 28 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>6</sup> Subs. for "any director or officer of the society" by s. 13 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>7</sup> Subs. for "a director or officer of the society is a director or partner", *ibid.*

<sup>8</sup> Ins. by s. 13 of Act 20 of 1940.

*(Part III.—Provident Societies.)*

default the director, manager, managing agent, auditor, actuary, officer or partner who has received the loan or is connected with the concern which has received the loan, as the case may be, shall cease to hold office in or be a partner of the society and shall be ineligible to hold office in or be a partner of the society until the loan is repaid.]

(4) Any director, <sup>1</sup>[manager, managing agent, auditor, actuary, officer or partner], of a society which contravenes the provisions of sub-section (3) who is knowingly a party to the contravention, shall without prejudice to any other penalty which he may incur be jointly and severally liable to the society for the amount of the loan, and such amount, together with interest from the date of the loan at such rate not exceeding twelve per cent. per annum as the Superintendent of Insurance may fix, shall on application by the Superintendent of Insurance to any Civil Court of competent jurisdiction be recoverable by execution as if a decree for such amount had been passed by that Court.

<sup>2</sup>(5) The provisions of section 86D of the Indian Companies Act, 1913, shall not apply to a loan granted to a director of a provident society being a company if the loan is one granted on the security of a policy on which the society bears the risk and the policy was issued to the director on his own life and the loan is within the surrender value of the policy.]

VII of  
1913.

Inspection  
of books.

86. The books of every provident society shall at all reasonable times be open to inspection by the Superintendent of Insurance or any person appointed by him in this behalf or by any member or policy-holder of the society who <sup>3</sup>[has, on application in this behalf, been permitted by the Superintendent of Insurance, subject to such conditions, if any, as he may impose, to make such inspection].

Inquiry by  
or on be-  
half of  
Superinten-  
dent of  
Insurance.

87. (1) The Superintendent of Insurance shall at least once in two years and may, if he thinks fit, at any time visit personally or depute a suitable person to visit the principal office of a provident society <sup>4</sup>[or the principal office in <sup>5</sup>[the Provinces] of a society having its principal place of business or domicile outside <sup>5</sup>[the Provinces] [and inquire into the <sup>6</sup>[affairs of the society] or may, after giving notice to the society and giving it an opportunity to be heard, direct such an inquiry to be made by an auditor or actuary appointed by him <sup>4</sup>[or by both an auditor and an actuary appointed simultaneously, or first by an auditor only or an actuary only and afterwards by an actuary or auditor].

(2) For the purposes of any such inquiry the Superintendent or the auditor or actuary, as the case may be, shall be entitled to examine all books and documents of the society and may demand from the society or any officer of the society such explanations as he may require on any matter relating to the affairs of the society.

<sup>1</sup> Subs. for "or officer" by s. 13 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>2</sup> Ins. by s. 47 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>3</sup> Subs. for "has made an application in this behalf to the Superintendent of Insurance" by s. 36 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>4</sup> Ins. by s. 48 of Act. 13 of 1941.

<sup>5</sup> Subs. by the A. O. 1948 for "British India".

<sup>6</sup> Subs. for "solvency of society and the manner in which the business of the society is conducted" by s. 37 of Act, 6 of 1946.

## (Part III.—Provident Societies.)

<sup>1</sup>[(3) The results of any such inquiry shall be recorded in writing by the person making the inquiry, and four copies of the record shall be supplied to the Superintendent of Insurance; and when the inquiry is completed a copy of the record or of each such record where more than one are made in the course of the same inquiry, shall be sent by the Superintendent of Insurance to the society concerned and shall be open to inspection by any member or policy-holder of the society.]

<sup>2</sup>[(4) All expenses of and incidental to any inquiry made by an auditor or actuary under sub-section (1) including any expenses incurred before the date on which the Superintendent of Insurance receives notice of an appeal under clause (e) of sub-section (1) of section 110 shall be defrayed by the provident society, shall have priority over other debts due from the society, and shall be recoverable as an arrear of land-revenue.]

<sup>3</sup>[(5) The Superintendent of Insurance may by notice in writing require the provident society to comply within a time to be specified therein (not being less than fifteen days from the receipt of the notice by the society) with any directions he may issue to remedy defects disclosed by an inquiry under this section.

(6) If the society fails to comply with any directions issued under sub-section (5), the Superintendent of Insurance may, after giving notice to the society and giving it an opportunity to be heard, apply to the Court for the winding up of the society.]

<sup>4</sup>[87A. (1) The insurance business of a provident society may be Amglamation and transfer of insurance transferred to any person or transferred to or amalgamated with the insurance business of any other provident society in accordance with a scheme prepared under this section and sanctioned by the Superintendent of business, insurance.

(2) Any scheme prepared under this section shall set out the agreement under which the transfer or amalgamation is proposed to be effected and shall contain such further provisions as may be necessary for giving effect to the scheme.

(3) Before an application is made to the Superintendent of Insurance to sanction any such scheme, notice of the intention to make the application together with a statement of the nature of the amalgamation or transfer, as the case may be, and of the reason therefor, shall at least two months before the application is made, be sent to the Superintendent of Insurance and certified copies, four in number, of each of the following documents shall be furnished to him, and other such copies shall during the two months aforesaid be kept open for the inspection of the members and policy-holders at the principal and branch offices of the provident societies concerned, namely:—

<sup>1</sup> Subs. for the original sub-section by s. 48 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Ins. by s. 48, *ibid.*

<sup>3</sup> Ins. by s. 87 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>4</sup> Ins. by s. 88, *ibid.*



## (Part III.—Provident Societies.)

- (a) a draft of the agreement or deed under which it is proposed to effect the amalgamation or transfer,
- (b) balance-sheets in respect of the insurance business of each of the provident societies concerned in such amalgamation or transfer,
- (c) actuarial reports and abstracts in respect of the insurance business of each of the provident societies so concerned,
- (d) a report on the proposed amalgamation or transfer, prepared by an independent actuary,
- (e) any other reports on which the scheme of amalgamation or transfer was founded;

and the balance-sheets, reports and abstracts referred to in clauses (b), (c) and (d) shall all be prepared as at the date at which the amalgamation or transfer is sanctioned by the Superintendent of Insurance is to take effect, which date shall not be more than twelve months before the date on which the application to the Superintendent of Insurance is made under this section:

Provided that the Superintendent of Insurance may exempt the provident society or societies concerned from furnishing to him and from keeping open for inspection any one or more of the above documents.

(4) When any application such as is referred to in sub-section (3) is made to the Superintendent of Insurance, he may require, if for special reasons he so directs, notice of the application to be sent to every person resident in <sup>1</sup>[British India or in an Indian State] who is the holder of a policy of any provident society concerned and may cause a statement of the nature and terms of the amalgamation or transfer, as the case may be, to be published in such manner and for such periods as he may direct, and after hearing the societies concerned, such policy-holders as apply to be heard and such other persons as he may deem fit, may sanction the arrangement, if he is satisfied that no sufficient objection to the arrangement has been established and shall make such consequential orders as are necessary to give effect to the arrangement, including orders as to the disposal of any deposit made under section 73:

Provided that—

- (a) no part of the deposit made by any party to the amalgamation or transfer shall be returned except where, after effect is given to the arrangement the whole of the deposit to be made by the provident society carrying on the amalgamated business or the person to whom the business is transferred is completed;
- (b) only so much shall be returned as is no longer required to complete the deposit last mentioned in clause (a);

---

<sup>1</sup> Sic. This should, it seems, have been amended by the A. O. 1948, to read "India or in a non-acceding Indian State".

## (Part III.—Provident Societies.)

(c) while the deposit last mentioned in clause (a) remains uncompleted, no accession, resulting from the arrangement, to the amount already deposited by the provident society carrying on the amalgamated business or the person to whom the business is transferred shall be appropriated as payment or part payment of any instalment of deposit subsequently due from it or him under section 73.

(5) A copy of the order under sub-section (1) sanctioning or refusing to sanction the arrangement shall be sent to each of the societies concerned and to each of the policy-holders who applied to be heard.

(6) If the scheme involves a reduction of the amount of the insurance and other contracts of the transfer or society or of any or all of the societies concerned in the amalgamation, the Superintendent of Insurance may sanction the scheme, reducing the amount of such contracts upon such terms and subject to such conditions as he may think proper, and the reduction of the contracts as sanctioned by the Superintendent of Insurance shall be valid and binding on all the parties concerned.]

Winding  
up by  
Court and  
voluntary  
winding up.

88. (1) The Court may order the winding up of a provident society being a company incorporated under the Indian Companies Act, 1913, [or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby], and the provisions of <sup>2</sup>[the Indian Companies Act, 1913], shall, subject to the provisions of this Part apply accordingly.

VII of  
1913.  
VI of 1882.  
X of 1866.  
VII of  
1913.

<sup>3</sup>(2) In addition to the grounds on which such an order may be based, the Court may order the winding up of a provident society if the Superintendent of Insurance, who is hereby authorised to do so, applies in this behalf to the Court on any of the following grounds, namely:—

- (a) that the registration of the society has been cancelled under sub-section (1) of section 70;
- (b) that it appears from the returns furnished under the provisions of this Act or as the result of an inquiry made under section 87 that the society is insolvent;
- (c) that the continuance of the society is prejudicial to the interests of the policy-holders.]

(3) A provident society being a company incorporated under the Indian Companies Act, 1913, [or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby], may be wound up voluntarily in accordance with the provisions of <sup>2</sup>[the Indian Companies Act, 1913], but shall not be so wound up except for the purpose of effecting an amalgamation or re-construction of the society or on the ground that by reason of its liabilities it cannot continue its business.

VII of  
1913.  
VI of 1882.  
X of 1866.  
VII of  
1913.

<sup>1</sup> Ins. by s. 49 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Subs. for "that Act," *ibid.*

<sup>3</sup> Subs. for the original sub section by s. 89 of the Insurance (Amendment) Act, 1946 (6 of 1946).

## (Part III.—Provident Societies.)

(4) A provident society not being a company incorporated under the Indian Companies Act, 1913,<sup>1</sup> [or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby] may be wound up voluntarily under this Act if a resolution is passed by the proprietors that the society should be wound up voluntarily for the purpose or on the ground specified in sub-section (3), and the Superintendent of Insurance may, in any case where he has ordered the cancellation of the registration of a society under sub-section (4) of section 70, order the winding up of the society under this Act.

VII of 1913.  
VI of 1882.  
X of 1866.

Reduction  
of insur-  
ance  
contracts.

89. The Court may make an order reducing the amount of the insurance contracts of a provident society upon such terms and subject to such conditions as the Court thinks just—

- (a) if the Superintendent of Insurance as an alternative to cancelling the registration of a society under sub-section (4) of section 70 applies to the Court in this behalf;
- (b) if while a society is in liquidation the Court thinks fit;
- (c) if when a society has been proved to be insolvent, the Court thinks fit to do so in place of making an order for the winding up of the society; or
- (d) if the Court is satisfied on an application made in this behalf by the society supported by the report of an actuary, and after giving the policy-holders an opportunity to be heard that it is desirable to do so.

Appoint-  
ment of  
liquidator.

90. (1) Where a provident society is to be wound up whether under the Indian Companies Act, 1913, or under this Act, the society shall, within seven days from the date of the order of the Court ordering the winding up or the passing of the resolution authorising the winding up, as the case may be, give notice thereof to the Superintendent of Insurance, and, except where the winding up is done by an order of the Court, the Superintendent of Insurance shall appoint the liquidator and shall determine the remuneration to be paid to him.

VII of 1913.

<sup>2</sup>[Provided that if the Superintendent of Insurance is not satisfied that the assets of the society are sufficient to meet the costs of liquidation including the remuneration of the liquidator, he may decline to make such appointment, and in such a case the society shall itself appoint a liquidator who shall carry out the liquidation as if the winding up was being done by an order of the Court.]

(2) Any liquidator <sup>3</sup>[appointed by the Superintendent of Insurance under sub-section (1)] may be removed by the Superintendent of Insurance if satisfied that the duties entrusted to him are not being properly discharged.

<sup>1</sup> Ins. by s. 40 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Ins. by s. 50, *ibid.*

<sup>3</sup> Subs. for "so appointed", *ibid.*

## (Part III.—Provident Societies.)

VII of  
1913

490A. Notwithstanding anything to the contrary contained in the Application Indian Companies Act, 1913, the provisions of sections 91, 92 of Act to and 93 shall apply to any liquidator appointed to wind up a provident society, whether by the Court, the Superintendent of Insurance or the society itself.] liquidators.

91. (1) A liquidator appointed to wind up a society shall have Powers of power— liquidator.

- (a) to institute or defend any legal proceedings on behalf of the society by his name or office;
- (b) to determine the contribution to be made by members of the society respectively to the assets of the society;
- (c) to investigate all claims against the society and to decide questions of priority arising between claimants;
- (d) to determine by what persons and in what proportion the costs of the liquidation [including the remuneration of the liquidator and any expenses incurred under clause (g) of this subsection] are to be borne;
- (e) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society;
- (f) to summon, and enforce the attendance of, witnesses and to compel the production of documents by the same means and as far as may be in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908, and
- (g) with the sanction of the Superintendent of Insurance, to employ such establishment and to obtain such assistance from an actuary or an auditor as may be necessary for the discharge of his duties.

V of 1908.

(2) The liquidator shall, for settling the list of contributories and realizing the amount of contributions, have the same powers as an official liquidator appointed by the Court for the winding up of a company under the Indian Companies Act, 1913.

VII of  
1913.

92. (1) As soon as a liquidator is appointed to wind up a society he shall take charge of all property movable or immovable of the society and of all its books and documents.

Procedure  
at liquidation.

(2) If any proprietor or officer of the society or any other person retains any portion of the assets of the society or fails to deliver to the liquidator any book or document when so required by the liquidator he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both, and the Court may order the delivery of the assets or book or document to the liquidator.

<sup>1</sup> Ins. by s. 40 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>2</sup> Ins. by s. 51 of the Insurance (Amendment) Act, 1941 (18 of 1941).

*(Part III.—Provident Societies.)*

(3) The liquidator shall within fifteen days of his appointment send notice by post to all persons who appear to him to be creditors of the society that a meeting of the creditors of the society will be held on a date not being less than twenty-one nor more than twenty-eight days after his appointment, and at a place and hour to be specified in the notice, and shall also advertise notice of the meeting once in the local official Gazette and once at least in two news-papers circulating in the province in which the society is situated.

(4) At the meeting so held the creditors shall determine whether an application shall be made for the appointment of any person as liquidator in the place of or jointly with the liquidator already appointed, or for the appointment of a committee of inspection, and, if they so resolve and an application accordingly is made at any time not later than fourteen days after the date of the meeting by any creditor appointed for the purpose at the meeting, the Superintendent of Insurance shall appoint a suitable person in place of or jointly with the liquidator already appointed, and [determine the remuneration to be paid to him and if so desired, shall also appoint] a committee of inspection.

(5) The committee of inspection shall, subject to any prescribed conditions, have a general power of supervision over the acts of the liquidator and shall have the right to inspect his accounts at all reasonable times.

(6) The liquidator shall, with such assistance from an actuary as may be required, ascertain as soon as practicable the amount of the society's liability to every person appearing by the society's books to be entitled to or interested in any policy issued by the society, and shall give notice of the amount so found to each such person in the prescribed manner and each such person on receiving such notice shall be bound by the value so ascertained.

(7) The liquidator shall make a valuation of the assets of the society and an estimate of the costs of the winding up, and shall on the basis of these, settle the list of contributories.

(8) The liquidator shall apply to the Superintendent of Insurance for an order for the return of the deposit made by the society under section 73 and the Superintendent of Insurance shall on such application order the return of the deposit subject to such terms and conditions as he may think fit.

(9) In administering and distributing the assets of the society the liquidator shall have regard to any directions that may be given by the creditors or contributories at a general meeting or by the Superintendent of Insurance.

(10) The liquidator shall keep books of account in which he shall record the proceedings at all meetings attended by him, all amounts received or expended by him and any other matter that may be prescribed, and these books may, with the sanction of the Superintendent of Insurance, be inspected by any creditor or contributory.

---

<sup>1</sup> Subs. by s. 41 of the Insurance (Amendment) Act, 1948 (8 of 1948).

## (Part III.—Provident Societies.)

(11). If the winding up continues for more than a year, the liquidator shall summon a meeting of the creditors and contributories at the end of the first year and of each succeeding year, and shall lay before them an account of his acts and dealings and of the conduct of the winding up, and that account together with any views expressed thereon by the meeting shall be forwarded by the liquidator to the Superintendent of Insurance.

VII of  
1913.

(12) So far as is not otherwise provided herein or is not otherwise prescribed under this Act, the liquidator shall so far as practicable follow the procedure to be followed by an official liquidator appointed by the Court for the winding up of a company under the Indian Companies Act, 1913.

[(13) The costs of the liquidation including the remuneration of the liquidator and any expenses incurred under clause (g) of sub-section (1) of section 91 shall, if the liquidator decides that they shall be payable out of the assets of the society, be payable in priority to all other claims.]

93. (1) As soon as the affairs of a provident society are fully wound up, the liquidator shall prepare an account of the winding up showing how the winding up has been conducted and the property of the society has been disposed of and shall call a meeting of the members, creditors and contributories for the purpose of laying before it the account and giving any explanation thereof.

Dissolution  
of provi-  
dent  
society.

(2) Notice of the meeting shall be sent to each person individually and shall be advertised in the local official Gazette and in at least two newspapers circulating in the province in which the society is situated.

(3) Within one week after the meeting the liquidator shall send to the Superintendent of Insurance a copy of the account and shall report to him the holding of the meeting and its date and shall forward to him a copy of the proceedings of the meeting.

(4) The Superintendent of Insurance may return the account to the liquidator if it is incomplete or unsatisfactory and may require the liquidator to carry out any further steps necessary to complete the winding up and the liquidator shall comply with such requirement and shall submit a further report to the Superintendent of Insurance within six months.

(5) If the Superintendent of Insurance is satisfied that the affairs of the society have been fully wound up he shall register the account of the liquidator who shall forthwith make over to the Superintendent of Insurance sums, if any, remaining undisposed of, and on the expiry of three months from the registering of the account the Superintendent of Insurance shall declare the society dissolved and cause the dissolution of the society to be notified in the local official Gazette, and the liquidator shall thereupon be discharged from further responsibility.

(6) If within a period of five years from the date on which any sums have been made over to the Superintendent of Insurance under sub-section (5) an order of a Court of competent jurisdiction has not been obtained at the instance of any claimant to such sums for their disposal the said sums shall become the property of Government.

<sup>1</sup> Ins. by s. 52 of the Insurance (Amendment) Act, 1941 (13 of 1941).

(Part III.—Provident Societies. Part IV.—Mutual Insurance Companies and Co-operative Life Insurance Societies.)

Nomina-  
tions and  
assign-  
ments.

94. (1) The provisions of section 38 and section 39 relating to assignment, transfer and nomination in the case of life insurance policies shall, subject to the provisions of this section, apply to policies of insurance issued by any provident society covering any of the contingencies specified in clause (a) <sup>1</sup>[of sub-section (2)] of section 65.

(2) No nomination shall be valid if the person nominated is not the husband, wife, father, mother, child, grand-child, brother, sister, nephew or niece of the holder of the policy.

## PART IV.

### MUTUAL INSURANCE COMPANIES AND CO-OPERATIVE LIFE INSURANCE SOCIETIES.

95. (1) In this Part—

Defini-  
tions.

- (a) "Mutual Insurance Company" means an insurer, being a company <sup>2</sup>[incorporated under the Indian Companies Act, 1919, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby.] which has no share capital and of which by its constitution only and all policy-holders are members; and
- (b) "Co-operative Life Insurance Society" means an insurer being a society registered under the Co-operative Societies Act, 1912, or under an Act of a Provincial Legislature governing the registration of co-operative societies which carries on the business of life insurance and which has no share capital on which dividend or bonus is payable and of which by its constitution only original members on whose application, the society is registered and all policy-holders are members:

VII of 1919,  
VI of 1882,  
X of 1866.

II of 1912.

Provided that any Co-operative Life Insurance Society in existence at the commencement of this Act shall be allowed a period of one year to comply with the provisions of this Act.

(2) Notwithstanding anything contained in sub-section (1), other co-operative societies may be admitted as members of a Co-operative Life Insurance Society, without being eligible to any dividend, profit or bonus.

(3) A Provincial Government may, subject to any rules made by the Central Government, empower the Registrar of Co-operative Societies of the province to register co-operative societies for the insurance of cattle or crops or both under the provisions of the Co-operative Societies Act in force in the province.

<sup>1</sup>Ins by s. 42 of the Insurance (Amendment) Act, 1946 (9 of 1946).

<sup>2</sup> Subs. for "incorporated under the provisions of the Indian Companies Act, 1929," by s. 29 of the Insurance (Amendment) Act, 1939 (11 of 1939).

## (Part IV.—Mutual Insurance Companies and Co-operative Life Insurance Societies.)

(4) A Provincial Government may make rules not inconsistent with any rules made by the Central Government to govern such societies, and the provisions of this Act, in so far as they are inconsistent with those rules, shall not apply to such societies.

96. The provisions of sections 6 and 7 and of sub-section (2) of section 20, so far as those provisions are inconsistent with the provisions of this Part, shall not apply, and the provisions of this Part shall apply to Mutual Insurance Companies and Co-operative Life Insurance Societies.

Application of Act to Mutual Insurance Companies and Co-operative Life Insurance Societies.

1 of 1915

97. No Mutual Insurance Company incorporated after the 26th day of January, 1937, and no Co-operative Life Insurance Society registered after that date under the Co-operative Societies Act, 1912, or under an Act of a Provincial Legislature governing the registration of co-operative societies shall be registered under this Act, unless it has as working capital a sum of fifteen thousand rupees, exclusive of the deposit to be made before or at the time of application for registration in accordance with sub-section (2) of section 98 of this Act and of the preliminary expenses, if any, incurred in the formation of the company or society.

Working capital of Mutual Insurance Companies and Co-operative Life Insurance Societies.

98. (1) Every Mutual Insurance Company and every Co-operative Life Insurance Society shall, in respect of the life insurance business carried on by it in [the Provinces], deposit and keep deposited with one of the offices in India of the Reserve Bank of India, for and on behalf of the Central Government, a sum of two hundred thousand rupees in cash or in approved securities estimated at the market value of the securities on the day of deposit.

Deposits to be made by Mutual Insurance Companies and Co-operative Life Insurance Societies.

VI 1912

(2) The deposit referred to in sub-section (1) may be made in instalments, of which the first shall be a payment, made before or at the time the application for registration under this Act is made, <sup>2</sup>[of not less than twenty-five thousand rupees] or such sum as with any deposit previously made by the insurer under the provisions of the Indian Life Assurance Companies Act, 1912, brings the amount deposited, up <sup>3</sup>[to not less than twenty-five thousand rupees] and the subsequent instalments shall be annual instalments made before the expiry of each subsequent <sup>4</sup>[calendar year] of an amount in cash or in approved securities estimated at the market value of the securities on the day of payment of the instalment, <sup>5</sup>[equal to not less than one-third of the <sup>6</sup>[premium income in the preceding calendar year as shown in the revenue account]].

<sup>1</sup> Subs. by the A.O. 1948 for "British India".

<sup>2</sup> Subs. for "of twenty five thousand rupees" by s. 58 of the Insurance (Amendment) Act, 1941 (18 of 1941) (with retrospective effect).

<sup>3</sup> Subs. for "to twenty five thousand rupees," *ibid*.

<sup>4</sup> Subs. for "year" by s. 80 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>5</sup> Subs. for "equal to one-third of the gross premium" by s. 58 of the Insurance (Amendment) Act, 1941 (18 of 1941) (with retrospective effect).

<sup>6</sup> Subs. for "gross premium income received in the previous calendar year" by s. 48 of the Insurance (Amendment) Act, 1946 (8 of 1946).



(Part IV.—Mutual Insurance Companies and Co-operative Life Insurance Societies.)

<sup>1</sup>[(3) The provisions of sub-section (2) of section 7 shall apply in respect of a Mutual Insurance Company and a Co-operative Life Insurance Society as if for the words 'under the foregoing provisions of this section' the words and figures 'under the provisions of section 98' were substituted.]

**Prohibition of loans.**

<sup>2</sup>98A. The provisions of section 29 shall apply to Co-operative Life Insurance Societies as they apply to other insurers, so however that in such application the references in the second proviso to sub-section (1) of the said section to the commencement of this Act shall be construed as references to the commencement of the Insurance (Amendment) Act, 1946.]

**Transferees and assignees of policies not to become member.**

99. No transferee or assignee of a policy issued by an insurer to whom this Part applies shall become a member of a Mutual Insurance Company or a Co-operative Life Insurance Society merely by reason of any such transfer or assignment.

**Publication of notices and documents of Mutual Insurance Companies and Co-operative Life Insurance Societies.**

100. Notwithstanding the provisions of section 79 and section 131 of the Indian Companies Act, 1913, a Mutual Insurance Company or a Co-operative Life Insurance Society may, instead of sending the notices and the copies of the balance-sheet, revenue account and other documents which they are required to send to the members under those sections, publish such notices or documents once in a newspaper published in the English language and in a newspaper published in an Indian language circulating in the place where the principal office of the company is situated:

VII of 1913.

Provided that, where any members of the company are domiciled in a province other than that in which the principal office of the company is situated, publication of the <sup>3</sup>\* \* \* notice of the meetings shall be made in a newspaper or newspapers published in the principal languages of that province and circulating therein <sup>4</sup>[and any member of the company domiciled in that province shall be entitled on application to the company to receive from it a copy of the balance-sheet and revenue account].

**Supply of documents to members.**

101. Every Mutual Insurance Company and every Co-operative Life Insurance Society shall, on the application of any member made within two years from the date on which any such document is furnished to the Registrar of Companies under the provisions of section 134 of the Indian Companies Act, 1913, or to the Registrar of Co-operative Societies of the province in which the Co-operative Life Insurance Society is registered, furnish a copy of the document free of cost to the member within fourteen days of the application.

VII of 1913.

<sup>1</sup> Ins. (with retrospective effect) by s. 58 of the Insurance (Amendment) Act, 1941 (18 of 1941).

<sup>2</sup> Ins. by s. 44 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>3</sup> The words "balance-sheet, revenue account and" were rep. by s. 54 of Act 18 of 1941.

<sup>4</sup> Ins. *ibid.*

## (Part V.—Miscellaneous.)

## PART V.

## MISCELLANEOUS

102. (1) Except as otherwise provided in this Act, any insurer who makes default in complying with or acts in contravention of any requirement of this Act and, where the insurer is a company, any director, managing agent, manager or other officer of the company, or where the insurer is a firm, any partner of the firm who is knowingly a party to the default, shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing default, with an additional fine which may extend to five hundred rupees for every day during which the default continues.

**Penalty for default in complying with or act in contravention of this Act.**

(2) <sup>1</sup>[Any provident society as defined in Part III which makes default in complying with or acts in contravention of any of the requirements of this Act] and any director, managing agent, manager, secretary or other officer of the society who is knowingly a party to the default, <sup>2</sup>[or contravention], shall be punishable with fine which may extend to five hundred rupees or in the case of a continuing default <sup>2</sup>[or contravention] with fine which may extend to two hundred and fifty rupees for every day during which the default <sup>2</sup>[or contravention] continues.

103. (1) Any insurer or any person acting on behalf of an insurer who <sup>3</sup>[carries on] any class of insurance business in contravention of any of the provisions of section 3, <sup>4</sup>\* section 7, <sup>5</sup>\* or section 98, or does any one or more of the acts constituting the business of insurance <sup>6</sup>[in relation to any insurance business <sup>7</sup>[carried on] in contravention of any of the said sections] shall be punishable with fine which may extend to two thousand rupees.

**Penalty for transacting insurance business in contravention of sections 3, 7 and 98.**

(2) Any person knowingly taking out a policy of insurance with any insurer or person guilty of an offence under sub-section (1) shall be punishable with fine which may extend to five hundred rupees:

Provided that nothing in <sup>8</sup>[sub-section (1) or sub-section (2)] shall apply to the business of re-insurance between the head office of an insurer in <sup>9</sup>[the Provinces] and the head office of an insurer not having an office in <sup>1</sup>[the Provinces].

<sup>10</sup>(3) Any provident society or any person acting on behalf of a provident society who carries on any class of insurance business in contravention of any of the provisions of section 70, section 73 or section 83 or does any one or more of the acts constituting the business of insurance in

<sup>1</sup> Subs. for "Any provident Society which makes default in complying with any of the requirements of Part III" by s. 55 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Ins., *ibid.*

<sup>3</sup> Subs. for "transacts" by s. 56, *ibid.*

<sup>4</sup> The word and figure "section 6" were rep. *ibid.*

<sup>5</sup> The word and figure "section 97" were rep. *ibid.*

<sup>6</sup> Subs. for "in relation to any such class of Insurance business" by s. 31 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>7</sup> Subs. for "transacted" by s. 56 of Act 13 of 1941.

<sup>8</sup> Subs. for "this section", *ibid.*

<sup>9</sup> Subs. by the A. O. 1948 for "British India".

<sup>10</sup> Ins. by s. 56 of Act 13 of 1941.

## (Part V.—Miscellaneous.)

relation to any insurance business carried on in contravention of any of the said sections shall be punishable with fine which may extend to one thousand rupees.]

**Penalty  
for false  
statement  
in docu-  
ment.**

104. Whoever, in any return, report, certificate, balance-sheet or other document, required by or for the purposes of any of the provisions of this Act, wilfully makes a statement false in any material particular, knowing it to be false, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

**Wrongfully  
obtaining  
or with-  
holding  
property.**

105. <sup>1</sup>[(1)] Any director, managing agent, manager or other officer or employee of an insurer who wrongfully obtains possession of any property of the insurer or having any such property in his possession wrongfully withholds it or wilfully applies it to purposes other than those expressed or authorised by this Act shall, <sup>2</sup>[on the complaint of the Superintendent of Insurance made after giving the insurer not less than fifteen days' notice of his intention, or] on the complaint of the insurer or any member or any policy-holder thereof, be punishable with fine which may extend to one thousand rupees and may be ordered by the Court trying the offence to deliver up or refund within a time to be fixed by the Court any such property improperly obtained or wrongfully withheld or wilfully misapplied and in default to suffer imprisonment for a period not exceeding two years.

<sup>3</sup>[(2)] This section shall apply in respect of a provident society as defined in Part III as it applies in respect of an insurer.]

**Wrongfully  
diminishing  
life insu-  
rance  
fund.**

106. <sup>3</sup>[(1)] If on the application of <sup>4</sup>[the Superintendent of Insurance or] an insurer or any member of an insurance company or any policy-holder or the liquidator of an insurance company (in the event of the insurer being in liquidation) the Court is satisfied that by reason of any contravention of the provisions of this Act the amount of the life insurance fund has been diminished, every person who was at the time of the contravention a director, manager, liquidator or an officer of the insurer shall be deemed in respect of the contravention to have been guilty of misfeasance in relation to the insurer unless he proves that the contravention occurred without his consent or connivance and was not facilitated by any neglect or omission on his part; and the Court shall have all the powers which a Court has under sections 235 and 237 of the Indian Companies Act, 1913, and shall also have the power to assess the sum by which the amount of the life insurance fund has been diminished by reason of the misfeasance and to order any person guilty thereof to contribute to that fund the whole or any part of that sum by way of compensation.

**VII of  
1913.**

<sup>4</sup>[(2)] This section shall apply in respect of a provident society as defined in Part III as it applies in respect of an insurer.]

<sup>1</sup> S. 105 was re-numbered as sub-section (1) of that section and sub-section (2) ins. by s. 57 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Ins. by s. 45 of the Insurance, (Amendment) Act, 1946 (8 of 1946).

<sup>3</sup> S. 106 was re-numbered as sub-section (1) of that section by s. 58 of Act 13 of 1941.

<sup>4</sup> Ins *ibid*.

## (Part V.—Miscellaneous.)

**106-A.** (1) When application is made to the Court for the making of any order to which this section applies the Court shall, unless the Superintendent of Insurance has himself made the application or has been made a party thereto, send a copy of the application together with intimation of the date fixed for the hearing thereof to the Superintendent of Insurance, and shall give him an opportunity of being heard.

Notice to and hearing of Superintendent of Insurance.

(2) The orders to which this section applies are the following, namely:—

- (a) an order for the attachment in execution of a decree of any deposit made under section 7 or section 98;
- (b) an order under section 9 or section 59 for the return of any such deposit;
- (c) an order under section 36 sanctioning any arrangement for the transfer or amalgamation of life insurance business or any order consequential thereon;
- (d) an order for the winding up of an insurance company or a provident society;
- (e) an order under section 58 confirming a scheme for the partial winding up of an insurance company;
- (f) an order under section 89 reducing the amount of the insurance contracts of a provident society.]

**107.** <sup>1</sup>[(1)] Except where proceedings are instituted by the Superintendent of Insurance, no proceedings under this Act against an insurer or any director, manager or other officer of an insurer or any person who is liable under sub-section (2) of section 41 shall be instituted by any person unless he has previous thereto obtained the sanction of the Advocate General of the province where the principal place of business in <sup>2</sup>[the Provinces] of such insurer is situate to the institution of such proceedings.

Previous sanction of Advocate General for institution of proceedings.

<sup>2</sup>[(2) This section shall apply in respect of a provident society as defined in Part III as it applies in respect of an insurer.]

**108.** If in any proceedings, civil or criminal, it appears to the Court hearing the case that a person is or may be liable in respect of negligence, default, breach of duty or breach of trust but that he has acted honestly and reasonably and that having regard to all the circumstances of the case he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, the Court may relieve him either wholly or partly from his liability on such terms as it may think fit.

Power of Court to grant relief.

**109.** No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

Cognizance of offences.

<sup>1</sup> Ins. by s. 14 of the Insurance (Amendment) Act 1940 (20 of 1940.)

<sup>2</sup> S. 107 was re-numbered as sub-section (1) of that section and sub-section (2) ins. by s. 59 of the Insurance (Amendment) Act, 1941 (19 of 1941).

<sup>3</sup> Subs. by the A.O. 1948 for "British India".

## (Part V.—Miscellaneous.)

**Appeals.**

110. (I) An appeal shall lie to the Court having jurisdiction from any of the following orders, namely:—

- (a) an order under section 3 refusing to register or cancelling the registration of, an insurer;
- (b) an order under section 5 directing the insurer to change his name;
- (c) an order under section 42 cancelling the licence issued to an agent;
- (d) an order under section 75 refusing to register an amendment of rules;
- <sup>1</sup>[(e) an order under section 87 or section 87A;]
- (f) an order made in the course of the winding up or insolvency of an insurer or a provident society.

(2) The Court having jurisdiction for the purposes of sub-section (I) shall be the principal Court of civil jurisdiction within whose local limits the principal place of business of the insurer concerned is situate.

(3) An appeal shall lie from any order made under sub-section (1) to the authority authorised to hear appeals from the decisions of the Court making the same and the decision on such appeal shall be final.

<sup>2</sup>[(4) No appeal under this section shall be entertained unless it is made before the expiration of four months from the date on which the order appealed against was communicated to the appellant.]

**Delegation of powers and duties of Superintendent of Insurance.**

<sup>3</sup>[110A. The Superintendent of Insurance may by general or special order delegate any of his powers or duties under this Act to any person subordinate to him. The exercise or discharge of any of the powers or duties so delegated shall be subject to such restrictions, limitations and conditions, if any, as the Superintendent of Insurance may impose, and shall be subject to his control and revision.

**Signature of documents.**

110-B. Every document which is required by this Act or by any rule made thereunder to be signed by the Superintendent of Insurance or by any person subordinate to him or by any officer authorised by him under sub-section (I) of section 42 shall be deemed to be properly signed, if it bears a facsimile of the signature of such Superintendent, person or officer printed, engraved, lithographed or impressed by any other mechanical process approved by the Central Government.]

**Service of notices.**

111. (I) Any process or notice required to be served on an insurer or provident society shall be sufficiently served if addressed to any person registered with the Superintendent of Insurance as a person authorised to accept notices on behalf of the insurer or provident society and left at, or sent by registered post to, the address of such person as registered with the Superintendent of Insurance.

<sup>1</sup> Subs. for the original item by s. 46 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>2</sup> Ins. by s. 60 of the Insurance (Amendment) Act, 1941 (18 of 1941).

<sup>3</sup> Ss. 110—A and 110-B ins. by s. 15 of the Insurance (Amendment) Act, 1940 (20 of 1940).

## (Part V.—Miscellaneous.)

(2) Any notice or other document which is by this Act required to be sent to any policy-holder may be addressed and sent to the person to whom notices respecting such policy are usually sent and any notice so addressed and sent shall be deemed to be notice to the holder of such policy:

Provided that, where any person claiming to be interested in a policy as transferee, assignee, or nominee has given to an insurer or to a provident society notice in writing of his interest, any notice which is by this Act required to be sent to policy-holders shall also be sent to such person at the address specified by him in his notice.

112. Notwithstanding anything to the contrary contained in this Act an insurer carrying on the business of life insurance shall be at liberty to declare an *interim* bonus or bonuses to policy-holders whose policies mature for payment by reason of death or otherwise during the inter-valuation period on the recommendation of the investigating actuary made at the last preceding valuation.

Declaration  
of interim  
bonuses.

113. <sup>1</sup>[(1) A policy of life insurance under which the whole of the benefits become payable either on the occurrence, or at a fixed interval or fixed intervals after the occurrence, of a contingency which is bound to happen, shall, if all premiums have been paid for at least three consecutive years in the case of a policy issued by an insurer, or five years in the case of a policy issued by a provident society as defined in Part III, acquire a guaranteed surrender value, to which shall be added the surrender value of any subsisting bonus already attached to the policy, and every such policy issued by an insurer shall show the guaranteed surrender value of the policy at the close of each year after the second year of its currency or at the close of each period of three years throughout the currency of the policy:

Aquisition  
of surrender  
values by  
policy.

Provided that the requirements of this sub-section as to the addition of the surrender value of the bonus attaching to a policy at surrender shall be deemed to have been complied with where the method of calculation of the guaranteed surrender value of the policy makes provision for the surrender value of the bonus attaching to the policy:

Provided further that the requirements of this sub-section as to the showing of the guaranteed surrender value on a policy shall be deemed to have been complied with where the insurer shows on the policy the guaranteed surrender value of the policy by means of a formula accepted in this behalf by the Superintendent of Insurance as satisfying the said requirements:

Provided further that the provisions of this sub-section as to the showing of the guaranteed surrender value on a policy shall not take effect until after the expiry of six months from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

<sup>1</sup> These sub-sections were subs. for the original sub-sections (1) and (2) by s. 61 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> 1st January 1942. see Notification No. 530—1(27)/41, dated 6th December 1941, Gazette of India, 1941, Pt. I, p. 1754.

## (Part V.—Miscellaneous.)

(2) Notwithstanding any contract to the contrary, a policy which has acquired a surrender value shall not lapse by reason of the non-payment of further premiums but shall be kept alive to the extent of the paid-up sum insured, and the paid-up sum insured shall for the purposes of this sub-section include in full all subsisting reversionary bonuses that have already attached to the policy, and shall, where the policy is one on which the maximum number of annual premiums payable is fixed and the premiums are of uniform amount, be before the inclusion of such bonuses not less than the amount bearing to the total sum insured by the policy exclusive of bonuses the same proportion as the total period for which premiums have already been paid bears to the maximum period for which premiums were originally payable.

(3) A policy kept alive to the extent of the paid-up sum insured under sub-section (2) shall not be entitled by virtue of that sub-section to participate in any profits declared distributable after the conversion of the policy into a paid-up policy.]

<sup>1</sup>[(4)] <sup>2</sup>[Sub-section (2) and sub-section (3) shall not apply];

3\* \* \* \*

<sup>4</sup>[(a) where the paid up sum insured by a policy, being a policy issued by an insurer, is less than one hundred rupees inclusive of any attached bonus, or takes the form of an annuity of less than twenty-five rupees, or where the paid up sum insured by a policy, being a policy issued by a provident society as defined in Part III, is less than fifty rupees inclusive of any attached bonus or takes the form of an annuity of less than twenty-five rupees, or]

<sup>5</sup>[(b)] where the parties after the default has occurred in the payment of the premium agree in writing to some other arrangement, or

<sup>6</sup>[(c)] to policies in which the surrender value is automatically applied under the terms of the contract to maintaining the policy in force after its lapse through non-payment of premium.

Power of  
Central  
Government  
to make  
rules.

114. (1) The Central Government may, subject to the condition of previous publication by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the qualifications to be possessed by actuaries;

<sup>7</sup>[(b) the manner in which it shall be determined which of the transactions of an insurer are to be deemed for the purposes of this Act to be insurance business transacted in India or in <sup>8</sup>[the Provinces], as the case may be;]

<sup>1</sup> The original sub-section (3) was re-numbered (4) by s. 61 of the Insurance (Amendment) Act, 1941 (19 of 1941).

<sup>2</sup> Subs. for "This section shall not apply to," *ibid.*

<sup>3</sup> The original clause (a) was, *rep., ibid.*

<sup>4</sup> Subs. for the original clause (b), *ibid.*

<sup>5</sup> The original clause (c) was re-lettered (b), *ibid.*

<sup>6</sup> The original clause (d) was re-lettered (c), *ibid.*

<sup>7</sup> Subs. for the original clause by s. 62 of the Insurance (Amendment) Act, 1941 (19 of 1941).

<sup>8</sup> Subs. by the A.O. 1948 for "British India."

## (Part V.—Miscellaneous.)

- (c) the procedure to be followed by the Reserve Bank of India in dealing with deposits made in pursuance of this Act, including the receipt ~~of~~, custody of, withdrawal of, and payment of interest on securities lodged as such deposits, and their inspection and verification by the Superintendent of Insurance;
- (d) the form referred to in clause (d) of sub-section (2) of section 16;
- (e) the manner in which this prospectuses and tables referred to in sub-section (1) of section 41 shall be published and the form in which they shall be drawn up;
- (f) the matters to be prescribed for the purposes of section 48;
- (g) the manner in which licences to act as insurance agents may be <sup>1</sup>[applied for,] issued or cancelled;
- (h) the contingencies other than those specified in clauses (a) to (f) of <sup>2</sup>[sub-section (2) of] section 65 on the happening of which money may be paid by provident societies;
- (i) the matters other than those specified in clauses (a) to (o) of sub-section (1) of section 74 on which a provident society shall make rules;
- (j) the form of any account, return or register required by Part III and the manner in which such account, return or register shall be verified;
- (k) subject to the provisions of this Act, the fees payable thereunder and the manner in which they are to be collected;<sup>3\*</sup>
- (l) the conditions and the matters which may be prescribed under sub-sections (5), <sup>4</sup>[(6)], (10) and (12) of section 92;
- <sup>5</sup>[(m) any other matter which is to be or may be prescribed.]

6[\*

\*

\*

\*

\*

1

<sup>7</sup>[(3) Every rule made under this section shall be laid as soon as may be after it is made before <sup>8</sup>\* \* \* the Central Legislature, while it is in session, for a total period of one month which may be comprised in one session or in two or more sessions, and if before the expiry of that period, <sup>9</sup>[the Legislature makes any modification in the rule or directs] that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be.]

<sup>1</sup> Ins. by s. 62 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Ins. by s. 16 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>3</sup> The word "and" was rep., *ibid.*

<sup>4</sup> Ins. by s. 32 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>5</sup> Ins. by s. 16 of Act 20 of 1940.

<sup>6</sup> The proviso was rep., *ibid.*

<sup>7</sup> Ins., *ibid.*

<sup>8</sup> The words "each of the Chambers of" were rep. by the A. O. 1948.

<sup>9</sup> Subs. for "or where the period for which the rule is so laid before one Chamber does not coincide with that for which it is so laid before the other, before the expiry of the later of these periods, both Chambers agree in making any modification in the rule or both Chambers agree", *ibid.*



## (Part V.—Miscellaneous.)

<sup>1</sup>[(4)] All rules made by a Local Government under the provisions of section 24 of the Provident Insurance Societies Act, 1912, and in force at the commencement of this Act shall so far as not inconsistent with the provisions of Part III continue in force and have effect as if duly made under this section until they are replaced by rules made under this section. V of 1912.

**Alteration of forms.**

115. The Central Government may, on the application or with the consent of an insurer, not being a company, alter the forms contained in the Schedules as respects that insurer, for the purpose of adapting them to the circumstances of that insurer:

Provided that nothing done under this section shall exempt the insurer from supplying all information required under this Act so far as it is possible for the insurer to do so.

**Power to exempt from certain requirements.**

116. <sup>2</sup>[(1)] The Central Government may, by notification in the official Gazette, exempt any insurer constituted, incorporated or domiciled in an <sup>3</sup>[Acceding State or other Indian State] <sup>4</sup>[from any of the provisions of this Act which may be specified in the notification] either absolutely or subject to such conditions or modifications as may be specified in the notification.

<sup>5</sup>[Provided that no such notification shall be issued unless the Central Government is satisfied that insurers constituted, incorporated or domiciled in <sup>6</sup>[the Provinces] are under the law or practice in such State entitled therein to benefits corresponding to those conferred by the notification or to benefits which in the opinion of the Central Government are at least equivalent thereto.]

<sup>7</sup>[(2)] This section shall apply in respect of provident societies as defined in Part III as it applies in respect of insurers.]

**Summary of returns to be published**

<sup>8</sup>[116-A. The Central Government shall every year cause to be published, in such manner as it may direct, a summary of the accounts, balance-sheets, statements, abstracts and other returns under this Act or purporting to be under this Act which have been furnished in pursuance of the provisions of this Act to the Superintendent of Insurance during the year preceding the year of publication, and may append to such summary any note of the Superintendent of Insurance or of the Central Government and any correspondence:

Provided that nothing in this section shall require the publication of the <sup>9</sup>[statement referred to in sub-section (2) of section 10 or the returns] referred to in sub-section (1) of section 28.]

<sup>1</sup> The original sub-section (3) was re-numbered (4) by s. 16 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>2</sup> S. 116 was re-numbered as sub-section (1) of that section by s. 63 of the Insurance (Amendment) Act, 1941 (18 of 1941).

<sup>3</sup> Subs. by the A.O. 1948 for "Indian State."

<sup>4</sup> Subs. by s. 17 of the Insurance (Amendment) Act, 1940 (20 of 1940) for "from the provisions of Section 7 or Section 98 relating to deposits or from the provisions of sub-section (2) of section 27 relating to the keeping of assets in India. "The words in italics were subs. for the original words "section 6" by Act 11 of 1939.

<sup>5</sup> Ins. by s. 17 of Act 20 of 1940.

<sup>6</sup> Subs. by the A.O. 1948 for "British India."

<sup>7</sup> Ins. by s. 63 of the Insurance (Amendment) Act, 1941 (18 of 1941).

<sup>8</sup> Ins. by s. 64, *ibid*.

<sup>9</sup> Subs. for "statements" by s. 47 of the Insurance (Amendment) Act, 1940 (6 of 1940).

## (Part V.—Miscellaneous.)

**VII of 1913.** 117. Nothing in this Act shall affect the liability of an insurer being a company [or a provident society as defined in Part III being a company] to comply with the provisions of the Indian Companies Act, 1913, in matters not otherwise specifically provided for by this Act.

Saving of provisions of Indian Companies Act, 1913.

**XVI of 1926.**  
**XIX of 1925.** 118. Nothing in this Act shall apply to any Trade Union registered under the Indian Trade Unions Act, 1926, or to any insurance business carried on by the Central or by a Provincial Government, or to any provident fund to which the provisions of the Provident Funds Act, 1925, apply, or, if the Superintendent of Insurance so orders in any case, and to such extent [or subject to such conditions or modifications] as he specifies in such order, to—

Exemptions.

(a) any fund in existence and officially recognised by the Central Government before the 27th day of January, 1937, maintained by or on behalf of Government servants or Government pensioners for the mutual benefit of contributors to the fund and of their dependants, or

(b) any mutual or provident insurance society composed wholly of Government servants or of railway servants which has been exempted from any or all of the provisions of the Provident Insurance Societies Act, 1912.

**V of 1912.**

<sup>3</sup>119. Any person may on payment of a fee of five rupees inspect the documents filed by an insurer with the Superintendent of Insurance under clause (f) of sub-section (2) of section 3, and may obtain a copy of any such document or part thereof on payment in advance at the prescribed rate for the making of the copy.]

Inspection and supply of copies of published prospectus etc.

120. The market value on the day of deposit of securities deposited in pursuance of any of the provisions of this Act with the Reserve Bank of India shall be determined by the Reserve Bank of India whose decision shall be final.

Determination of market value of securities deposited under this Act.

**IV of 1882.** 121. To the Exception to section 130 of the Transfer of Property Act, 1882, the following words and figures shall be added, namely:—

Amendments of section 130, Act IV of 1882.

“or affects the provisions of section 38 of the Insurance Act, 1938”.

**IV of 1938.**

<sup>4</sup>122. In Item No. 86 in the First Schedule to the Indian Limitation Act, 1908,—

**IX of 1908.**

(a) for the entry in the first column the following shall be substituted, namely:—

Amendment of Schedule I, Act IX of 1908.

<sup>1</sup> Ins. by s. 65 of the Insurance (Amendment) Act, 1941 (18 of 1941).

<sup>2</sup> Ins. by s. 66, *ibid.*

<sup>3</sup> Subs. by s. 67, *ibid.*

<sup>4</sup> Ins. by s. 68, *ibid.* (The original s. 122 was rep. by Act 11 of 1939.)

*(The First Schedule.)*

'(a) On a policy of insurance when the sum insured is payable after proof of the death has been given to or received by the insurers.

(b) On a policy of insurance when the sum insured is payable after proof of the loss has been given to or received by the insurers.';

(b) for the entry in the third column, the following shall be substituted, namely:—

'(a) The date of the death of the deceased.

(b) The date of the occurrence causing the loss.']

**Repeals.**

123. The Provident Insurance Societies Act, 1912, the Indian Life Assurance Companies Act, 1912, and the Indian Insurance Companies Act, 1928, are hereby repealed.

V of 1912  
VI of 1912  
XX of 1928

**THE FIRST SCHEDULE.**

*(See Section 11.)*

*Regulations and Forms for the preparation of Balance-Sheet.***PART I.***Regulations.*

1. The balance-sheet required to be prepared in respect of every class of business carried on by an insurer is, in the form in which it is set out in Part II of this Schedule (Form A), appropriate to a case where the insurer maintains a separate fund in respect of life insurance business.

2. The balance-sheet of life insurance business shall be prepared as a separate document. The balance-sheet of any class of business may be prepared as a separate document instead of being incorporated by the addition of columns and headings in the general balance-sheet, but the totals of each such separate balance-sheet (showing the total assets of the class of business, the balance at the credit of the life insurance fund or other separate fund or account, the amount of shareholders' undivided profits, and outstanding liabilities) must in any case be incorporated in the general balance-sheet.

3. If any combined balance-sheet is for any purpose issued by an insurer, it shall be in accordance with the Form set out in this Schedule,

*(The First Schedule.)*

and there shall not be included among the assets shown in any such combined balance-sheet any amount in respect of any holding in or advance to any insurer whose assets and liabilities have been incorporated therein. Every combined balance-sheet must show clearly on the face thereof that it is a combined balance-sheet and must set out fully the name of every insurer whose assets and liabilities have been incorporated therein; if the assets and liabilities of any person not being an insurer are included in a combined balance-sheet the fact must be stated thereon.

4. Where any guarantee has been given by an insurer (otherwise than in the ordinary course of re-insurance business) in respect of the policies of any other insurer, the balance-sheet of the insurer by whom the guarantee was given must show clearly the name of every insurer whose policies have been so guaranteed and the extent of the guarantee:

Provided that this regulation shall not apply where a combined balance-sheet is issued incorporating the assets and liabilities of the insurer whose policies are guaranteed.

5. Where any part of the assets of an insurer is deposited in any place outside [the Provinces] as security for the owners of policies issued in that place, the balance-sheet shall state that part of the assets has been so deposited, and, if any such part forms part of the life insurance fund, shall show the amount thereof and the place where it is deposited. Where any combined balance-sheet is issued by an insurer for any purpose, the information required by this regulation shall be shown in the aggregate in respect of all the insurers whose assets and liabilities have been incorporated in the balance-sheet.

6. There shall be appended to the balance-sheet a statement in Form AA as set out in Part II of this Schedule showing the market value and the book value of the assets in India.

7. Every balance-sheet shall contain the following certificates, namely:—

- (a) a certificate signed by the same persons as are required by this Act to sign the balance-sheet explaining how the values as shown in the balance-sheet of the Investments in Stocks and Shares have been arrived at, and how the market value thereof has been ascertained for the purpose of comparison with the values so shown;
- (b) a certificate signed by the same persons as are required by this Act to sign the balance-sheet and signed also, so far as respects the value of any items, shown in the balance-sheet under the heading of "Reversions and Life Interests", by an actuary, certifying that the values of all the assets have been reviewed

<sup>1</sup> Subs. by the A.O. 1948 for 'British India'.

*(The First Schedule.)*

as at the date of the balance-sheet, and that in their belief the assets set forth in the balance-sheet are shown in the aggregate at amounts not exceeding their realisable or market value under the several headings—"Loans", "Reversions and Life Interests", "Investments", "Agent's Balances", "Outstanding Premiums", "Interest, Dividends and Rents outstanding", "Interest, Dividends and Rents accruing but not due", "Amounts due from other Persons or Bodies carrying on Insurance Business", "Sundry Debtors", "Bills Receivable", "Cash" and the several items specified under "Other Accounts".

Provided that if the persons signing the certificate are unable to certify that the assets set forth in the balance-sheet are so shown as aforesaid, a full explanation of the bases upon which the values shown in the balance-sheet have been assessed shall be given in the certificate;

- (c) a certificate signed by the same persons as are required by this Act to sign the balance-sheet and by the auditor certifying that no parts of the assets of the life insurance fund has been directly or indirectly applied in contravention of the provisions of this Act relating to the application and investment of life insurance funds; and
- (d) certificates signed by the auditor (which shall be in addition to any other certificate or report which he is required by law to give with respect to the balance-sheet) certifying—
  - (i) that he has verified the cash balances and the securities relating to the insurer's loans, reversions and life interests, and investments;
  - (ii) to what extent, if any, he has verified the investments and transactions relating to any trusts undertaken by the insurer as trustee, and
  - (iii) in the case of a combined balance-sheet, that he has audited the balance-sheet and accounts of every insurer whose assets and liabilities are incorporated therein, or that any such balance-sheet and accounts which have not been audited by him have been certified by independent auditors. The said certificate shall contain a reference to such reservations, if any, as may have been made by any auditor upon any report or certificate given by him with respect to the balance-sheet and accounts of any insurer whose assets and liabilities are incorporated in the combined balance-sheet.

8. If the values shown in the balance-sheet in respect of "Holdings in Subsidiary Companies" or "House property (i) in India (ii) out of

*(The First Schedule)*

India" have been increased since the last previous balance-sheet, the certificate required by paragraph (b) of the last foregoing regulation shall state the amount of every increase not solely due to the cost of subsequent additions or, as respects holdings in controlled companies, to increased profits, and shall contain an explanation of the reason therefor.

9. For the purposes of this Schedule the following expressions have the meanings hereby respectively assigned to them, namely:—

- (a) "combined balance-sheet" includes any combined statement made by an insurer of assets and liabilities in the form of a balance-sheet which includes the assets and liabilities of any other insurer; and
- (b) "market value" means as respects any assets the market value thereof as ascertained from published market quotations, or, if there be no such value, its fair value as between a willing buyer and a willing seller.



(The First Schedule)

Assets and Advance (c) . . . . .	Foreign Government Securities . . . . .
Bills payable (c) . . . . .	Indian Municipal Securities . . . . .
Estimated Liability in respect of outstanding claims whether due or intimated (d) . . . . .	British and Colonial Securities . . . . .
Annuities due and unpaid (d) . . . . .	Foreign Securities . . . . .
Outstanding Dividends . . . . .	Bonds Debentures Stocks and other securities
Amounts due to other Persons or Bodies carrying on Insurance Business (c) . . . . .	whereon interest is guaranteed by the Indian Government or a Provincial Government
Sundry Creditors (including outstanding and accruing expenses and Taxes) (c) . . . . .	Bonds Debentures Stocks and other Securities
Other sums owing by the insurer (particulars to be given) (c) . . . . .	whereon interest is guaranteed by the British or any Colonial Government
Contingent Liabilities (to be specified) (c) . . . . .	Bonds Debentures Stocks and other Securities
Rs . . . . .	whereon interest is guaranteed by any Foreign Government
	Debentures of any railway in India
	Debentures of any railway out of India
	Preference or guaranteed Shares of any railway in India
	Preference or guaranteed Shares of any railway out of India
	Railway Ordinary Stocks in India (a) out of India
	Other Debentures and Debenture Stock of Companies incorporated in India (a) out of India
	Other guaranteed and preference Stocks and Shares of Companies incorporated in India (a) out of India
	Other Ordinary Stocks and Shares of companies incorporated in India (a) out of India
	Holding in Subsidiary Companies (b) House property (c) in India (a) out of India
	Freight and Freight-hold ground rents and rent charges . . . . .
	Agent's Balances . . . . .
	Outstanding Premiums, 1[d]
	Interest Dividends and Rents outstanding (d)
	Carried over



## FORM A—contd.

(The First Schedule)

Life and Annuity Business, (1)	Other Classes of Business, (2)*	Total	Life and Annuity Business, (1)	Other Classes of Business, (2)*	Total
	<p style="text-align: center;">Brought forward</p> <p>Interest, Dividends and Rents accruing but not due (d)</p> <p>Amounts due from other Persons or Bodies carrying on Insurance Business (h)</p> <p>Sundry Debtors (i)</p> <p>Bills Receivable</p> <p>Cash:</p> <p>At Bankers on Deposit Account</p> <p>At Bankers on Current Account and in hand</p> <p>At Call and Short Notice</p> <p>Other Accounts (to be specified) (k)</p>				

\*Assets and Liabilities, Shareholders' Capital and Reserves, not allocated to any class of business specified in column (1) must be shown in column (2).

## NOTES.

- (a) The Reserves or Contingency Accounts must be separately stated.
- (b) If the insurer has not full and unrestricted control of the assets constituting the Pension or Superannuation Accounts, either those Accounts and the assets and liabilities relating thereto, must be omitted from the balance-sheet or the assets of which the insurer has not such control must be clearly indicated on the face of the balance-sheet.
- (c) If the insurer has deposited security as cover in respect of any of these items, the amount and nature of the securities so deposited must be clearly indicated on the face of the balance-sheet.
- (d) These items are or have been included in the corresponding items in the Revenue or Profit and Loss Account. Outstanding and accruing interest, dividends and rents must be shown after deduction of income-tax or the income-tax must be provided for amongst the liabilities on the other side of the balance-sheet.
- (e) Such items as amount of liability in respect of bills discounted, uncalled capital of subsidiary companies, uncalled capital of other investments, etc., must either be shown in their several categories under the heading "Contingent Liabilities" or the appropriate items on the assets side must be set out in such detail as will clearly indicate the amount of the uncalled capital.
- (f) As respects life and annuity business full particulars of holdings in and loans to subsidiary companies must be stated, giving the name of each company, the number and description of each class of shares held, the amounts paid up thereon, and the value at which the holdings in each company stand in the balance-sheet.

(The First Schedule.)

(g) Either this item must be shown net or the commission must be provided for amongst the liabilities on the other side of the balance-sheet.

(h) The aggregate amount owing by a subsidiary company or subsidiary companies is to be shown separately from all other assets and the aggregate amount owing to a subsidiary company or subsidiary companies is to be shown separately from all other liabilities.

(i) Amounts due from directors and officers must be shown separately.

(j) No amounts must be entered under this heading unless fully secured. If not fully secured, the amounts must be included under the heading "Sundry Debtors".

(k) Under this heading must be included such items as the following, which must be shown under separate headings suitably described: office furniture, goodwill, preliminary, formation and organisation expenses, development expenditure account, discount on debentures issued, other expenditure carried forward to be written off in future years, balance being loss on Profit and Loss Appropriation Accounts, etc. The amounts included in the balance-sheet must not be in excess of cost.

(l) Under the head "Other accounts, if any (to be specified)" on the left hand side, fines realised from the staff and their contribution towards the provident fund, if any, should be shown under separate sub-heads.

1[(m) Where the insurer is required to maintain a separate account in respect of any sub-class of miscellaneous insurance business this heading is to be split up accordingly.]

(The First Schedule.)

## FORM AA.

Classified Summary of the <sup>1</sup>[Assets in India] of the.....  
Company on 19 .

Class of Asset.	Book value as per (a) below.	Market value as per (b) below.	Remarks as per (c) below.
	Rs.	Rs.	
(1) Government of India Securities. (2) Indian Provincial Government Securities. (3) Indian Municipal Port and Improvement Trust Securities including Debentures. (4) Debentures of Indian Railways. (5) Guaranteed and Preference Shares of Indian Railways. (6) Annuities of Indian Railways. (7) Ordinary Shares of Railways in India. (8) Other Debentures of concerns in India. (9) Other Guaranteed and Preference Shares of concerns in India. (10) Other Ordinary Shares of concerns in India. (11) Loans on the Company's policies effected in India and within their surrender value. (12) Loans on Mortgage of property in India. (13) Loans on Personal Security to persons domiciled and resident in India. (14) Other loans granted in India (particulars to be stated.) (15) Land and House property in India. (16) Cash on Deposit in Banks in India. (17) Cash in Hand and on current account in banks in India. (18) Agents' balances and outstanding premiums. (19) Interest, dividends and rents either outstanding or accrued but not due. (20) Other assets in India (to be specified).			

<sup>1</sup> Subs. for "Indian Assets" by s. 85 of the Insurance (Amendment) Act, 1939 (11 of 1939).

(The First Schedule. The Second Schedule.)

The statement shall show—

- (a) the value for which credit is taken in the balance-sheet for each of the above-mentioned classes of assets,
- (b) the market value of such of the abovementioned classes of assets as has been ascertained from published quotations after deduction of accrued interest included in market prices in those cases where accrued interest is included elsewhere in the balance-sheet,
- (c) how the value of such of the abovementioned classes of assets as has not been ascertained from published quotations has been arrived at, and
- (d) the rates of exchange at which the values of the assets other than in rupee currency have been converted into rupees.

The market values need not be shown separately where they are not less than the book values and a certificate to that effect is appended to the statement.

No amounts on account of any of the following items may be entered in the statement:—

Goodwill,

Preliminary, formation, organisation or development expenses,

Commission or discount on shares or debentures issued,

Commuted Commission.

Expenditure carried forward to be written off in future years.

## THE SECOND SCHEDULE.

(See Section 11.)

*Regulations and Forms for the preparation of Profit and Loss Accounts.*

### PART I.

#### *Regulations.*

1. The items on the income side of the Profit and Loss Account and Profit and Loss Appropriation Account must relate to income whether actually received or not, and the items on the expenditure side must relate to expenditure whether actually paid or not.

2. Deductions from Interest, Dividends and Rents to be shown in respect of income-tax must include all amounts in respect of <sup>1</sup>[Indian (Central) income-tax] whether or not it has been or is to be deducted at source or paid direct.

3. The Interest, Dividends and Rents less income-tax thereon shown in the Revenue Accounts for any classes of business other than life insurance business, including annuity business may, if the insurer so desires, be included with the corresponding items in the Profit and Loss Account.

<sup>1</sup> Subs. by the A. O. 1948 for "British Indian income-tax,"



## (The Second Schedule. The Third Schedule.)

## FORM C.

## Form of Profit and Loss Appropriation Account.

Profit and Loss Appropriation Account of \_\_\_\_\_ for the year ended 19 .

	Rs. As. p.		Rs. As. p.
Balance being loss brought forward from last year . .		Balance brought forward from last year . . Rs.	
Balance being loss for the year brought from Profit and Loss Account (as in Form B)		Less—Dividends since paid in respect of last year (to be specified and if "free of tax" to be so stated)* Rs.	
Dividends paid during the year on account of the current year (to be specified and if "free of tax" to be so stated) . . . . .			
Transfers to any particular Funds or Accounts (details to be given) . . . . .		Balance for the year brought from Profit and Loss Account (as in Form B) . . . . .	
Balance at end of the year as shown in the Balance-Sheet . . . . .		Balance being loss at end of the year as shown in the Balance-Sheet . . . . .	

\* NOTE.—This item may be shown on the other side of the account if preferred.

## THE THIRD SCHEDULE.

(See Section 11.)

## Regulations and Forms for the preparation of Revenue Accounts.

## PART I.

## Regulations.

1. Form D is, as set out in Part II of this Schedule, appropriate for life insurance business, but a separate revenue account must be prepared for every class <sup>1</sup>[or sub-class] of business in respect of which the insurer is required to maintain a separate account.

2. Form F is, as set out in Part II of this Schedule, appropriate for fire insurance <sup>2</sup>[and for marine insurance] business. A separate revenue account in the same form must be prepared for <sup>3</sup>\* \* \* miscellaneous insurance <sup>1</sup>[exclusive of any sub-class of such business in respect of which the insurer is required to maintain a separate account]

<sup>1</sup>[For a sub-class of miscellaneous insurance in respect of which the insurer is required to maintain a separate account, Form D or Form F as set out in Part II of this Schedule may be used with such modifications as the Superintendent of Insurance may authorise.]

<sup>1</sup> Ins. by s. 70 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Ins. by s. 4 of the Insurance (Amendment) Act, 1944 (7 of 1944).

<sup>3</sup> The words "accident and" were rep. by s. 19 of the Insurance (Amendment) Act, 1940 (20 of 1940)

<sup>4</sup> The words "including Workmen's Compensation and Motor Car Insurance" were rep. by s. 19 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>5</sup> The words "Form E is, as set out in Part II of this Schedule, appropriate for marine insurance business" were rep. by s. 4 of the Insurance (Amendment) Act, 1944 (7 of 1944).

## (The Third Schedule.)

3. If any combined revenue account is for any purpose issued by an insurer it must be in accordance with the forms specified in this Schedule and must clearly show on the face thereof that it is a combined revenue account, and must set out fully the name of every insurer required to make separate returns under this Act whose revenue and expenditure have been included therein; if the revenue and expenditure of any person not being an insurer are included in a combined revenue account, the fact must be stated thereon.

4. The items on the income side of the revenue account must relate to income whether actually received or not, and the items on the expenditure side must relate to expenditure whether actually paid or not.

5. Re-insurance premiums, whether on business ceded or accepted, are to be brought into account gross (*i.e.*, before deducting commissions) under the head of premiums.

6. As respects life insurance business the following statements shall be furnished to the Superintendent of insurance every year showing details provided for in a Form pertaining thereto:—

(A) A statement in form DD as set forth in Part II of this Schedule.

(B) A statement in form DDD as set forth in Part II of this Schedule.

(C) A statement in form DDDD as set forth in Part II of this Schedule.

1[7. In addition to the revenue account, information shall be supplied of the gross premium written direct in India, that is, the premium income without taking into account premiums on reinsurances ceded or accepted, for every class or sub-class of business in respect of which the insurer is required to maintain a separate account.]

8. Any office premises which form part of the assets of a life insurance fund must be treated as an interest earning investment, and accordingly, in the revenue account for life insurance business a fair rent for the premises must be included under the heading "Interest Dividends and Rents" and in the revenue account for every class of business for which the premises are used proper charges for the use thereof must be included under the heading "Expenses of Management."

9. Where an insurer carries on the business of life insurance in conjunction with any other class of insurance business the expenses of management charged to the life insurance revenue account must not include more than a reasonable proportion of the common expenses and in particular, no such account must be charged with more than a fair sum for the use of any office premises having regard to the income from the various classes of business carried on and to the extent to which the premises are used for the purposes of each class of business.

10. Deductions from Interest, Dividends and Rents in respect of income-tax must include all income-tax charged on such income whether or not it has been or is to be deducted at source or paid direct; the income-tax to be shown as so deducted in the life insurance Revenue Account is <sup>2</sup>[Indian (Central), Indian (State)], United Kingdom, Foreign and Dominion income-tax, but the income-tax to be shown as deducted in Revenue Accounts of any other classes of business is <sup>3</sup>[Indian (Central) income-tax] only.

<sup>1</sup> Subs. for the original regulation by s. 48 of the Insurance (Amendment) Act, 1948 (6 of 1948).

<sup>2</sup> Subs. by the A. O. 1948 for "British Indian."

<sup>3</sup> Subs. by the A. O. 1948 for "British Indian" Income-tax.

(The Third Schedule.)

## PART II.

## Forms.

## FORM D.

*Form of Revenue Account applicable to Life Insurance Business.*

Revenue Account of \_\_\_\_\_ for the year ended 19 \_\_\_\_  
in respect of \_\_\_\_\_ Business.

—	Business within India.	Business out of India. (a)	Total.	—	Business within India.	Business out of India. (a)	Total.
	Rs.	Rs.	Rs.		Rs.	Rs.	Rs.
Claims under Policies (including provision for claims due or intimated), less Re-Insurances—				Balance of Fund at the beginning of the year . . . .			
By death . . . .				Premiums, less Re-insurances—			
By maturity . . . .				(i) <sup>1</sup> [First year premiums, where, the maximum premiums-paying period (g) is—			
Annuities, less Re-insurances.				two years . . . .			
Surrenders (including Surrenders of Bonus), less Re-insurances.				three years . . . .			
Bonuses in Cash, less Re-insurances.				four years . . . .			
Bonuses in Reduction of premiums, less Re-insurances.				five years . . . .			
2****. . . . .				six years . . . .			
Expenses of Management(b)—				seven years . . . .			
<sup>3</sup> [1, (a) Commission to insurance agents (less that on Re-insurances)				eight years . . . .			
(b) Allowances and commission (other than commission included in sub-item (a) preceding)] . . . . .				nine years . . . .			
				ten years . . . .			
				eleven years . . . .			
				twelve years or over (including throughout life) . . . . .			
				(ii) Renewal premiums . . . .			
				(iii) Single premiums . . . .			
				Consideration for Annuities granted, less Re-insurances (c). . . .			
				Interest, Dividends and Rents . . . .			
				Less—Income-tax thereon (d) . . . .			
				Registration fees . . . .			
				Other Income (to be specified) (e) . . . .			
				Loss transferred to Profit and Loss Account			
				Transferred from Appropriation Account . . . . .			

<sup>1</sup> Subs. for "First year premiums" by s. 48 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>2</sup> The entry "Commission to insurance agents (less that on re-insurances)" was rep. by s. 70 of the Insurance (Amendment) Act, 1941 (18 of 1941).

<sup>3</sup> Subs. for "1. Allowances and Commission (other than commission to insurance agents)", *ibid*.



(The Third Schedule.)

FORM D—contd.

	Business within India.	Business out of India. (a)	Total.		Business within India.	Business out of India. (a)	Total.
	Rs.	Rs.	Rs.		Rs.	Rs.	Rs.
2. Salaries etc. (other than to agents and those contained in item No. 1).							
3. Travelling ex- penses . . . . .							
4. Directors' fees.							
5. Auditors' fees.							
1[6 Medical fees].							
2[7.] Law charges.							
2[8.] Advertise- ments . . . . .							
2[9.] Printing and Stationery . . .							
2[10.] Other ex- penses of management (accounts to be specified) . . .							
3**** . . . . .							
3[11.] Rents for offices belong- ing to and oc- cupied by the insurer . . . .							
3[12.] Rents of other offices oc- cupied by the insurer . . . .							
Bad Debts . . . . .							
United Kingdom, 4[Indian], Domi- nion and Foreign Taxes . . . . .							
Other Expenditure (to be specified) .							
Profit transferred to Profit and Loss Account . .							
Balance of Fund at the end of the year as shown in the Balance- sheet. . . . .							
Rs.				Rs.			

## NOTES.

(a) 5\*\*\*\*These columns apply only to business the premiums in respect of which are  
6[ordinarily paid outside India].

1 Ins. by s. 70 of the Insurance (Amendment) Act, 1941 (18 of 1941).

2 The original entries 6 to 12 were re-numbered 7 to 18, *ibid.*

3 Entry 11 rep. and entries 12 and 13 re-numbered 11 and 12 respectively by s. 48 of the Insurance (Amendment) Act, 1948 (6 of 1946).

4 Subs. by the A. O. 1948 for "British Indian".

5 The words "In the case of an insurer having his head office in British India" were rep. by s. 70 of Act 18 of 1941.

6 Subs. for "payable outside India" by s. 19 of the Insurance (Amendment) Act, 1940 (20 of 1940).

*(The Third Schedule.)*

1[If any question arises whether any premiums are ordinarily paid outside India, the Superintendent of Insurance shall decide the question and his decision shall be final].

(b) If any sum has been deducted from this item and entered on the assets side of the balance-sheet, the amount so deducted must be shown separately. Under this item the salary paid to the managing agent or managing director shall be shown separately from the total amount paid as salaries to the remaining staff.

(c) All single premiums for annuities, whether immediate or deferred, must be included under this heading.

(d) 2[Indian] United Kingdom, Foreign and Dominion income-tax on Interest Dividends and Rents must be shown under this heading, less any rebates of Income-tax recovered from the revenue authorities in respect of expenses of management. The separate heading on the other side of the account is for United Kingdom, 2[Indian], Foreign and Dominions taxes, other than those shown under this item.

(e) Under the head "Other Income" lines, if any, realised from the staff must be shown separately. All the amounts received by the insurer directly or indirectly whether from his head office or from any other source outside<sup>3</sup> India shall also be shown separately in the revenue account except such sums as properly appertain to the capital account.

(f) In the case of an insurer having his principal place of business outside <sup>4</sup>[the Provinces] the expenses of management for business out of India and total business need not be split up into the several sub-heads, if they are not so split up in his own country.

5[(g) Where the maximum premiums-paying period includes a fraction of a year, such fraction shall be ignored for the purposes of this revenue account].

---

<sup>1</sup> Ins. by s. 19 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>2</sup> Subs. by the A. O. 1948 for "British Indian".

<sup>3</sup> The word "British" was rep. by s. 96 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>4</sup> Subs. by the A. O. 1948 for "British India".

<sup>5</sup> Ins. by s. 48 of the Insurance (Amendment) Act, 1946 (6 of 1946).

## (The Third Schedule.)

Classified statement of life insurance policies of the		FORM DD.		Company, for the year ending		19 .
		New life insurance business in respect of which a premium has been paid in the year.		Total life insurance business in force at end of the year.		Premium income for which credit has been taken in the revenue account.
		Number of policies.	Sums insured and annuities per annum.	Single premiums (including consideration for immediate annuities and all other premiums paid at the outset where no subsequent premium is payable).	Yearly renewal premium income.	Sums insured with bonuses and annuities per annum.
			Rs.	Rs.	Rs.	Rs.
<i>Ordinary policies.</i>						
In India	.	.	.	.	.	.
Out of India	.	.	.	.	.	.
		Total				
<i>Annuity contracts, etc.</i>						
In India	.	.	.	.	.	.
Out of India	.	.	.	.	.	.
		Total				
<i>Group insurance policies.</i>						
In India	.	.	.	.	.	.
Out of India	.	.	.	.	.	.
		Total				

The amounts should be stated to the nearest rupees and after deduction of re-insurances.  
 1 These words were inserted by s.96 of the Insurance (Amendment) Act, 1939 (11 of 1939).

(The Third Schedule.)

FORM DDD.

Additions to and deductions from policies of the Company for the year ending

19

	Ordinary life insurance policies insuring money to be paid on death or survivorship.			Annuities.	
	No.	Sum assured.	Reversionary bonus additions.	No.	Annuity per annum.
(1) Policies at beginning of year		Rs.	Rs.		Rs.
(2) New policies issued . . . . .					
(3) Old policies revived . . . . .					
(4) Old policies changed and increased . . . . .					
(5) Bonus additions allotted . . . . .					
Total					
Discontinued during year—					
(6) by death . . . . .					
(7) By survivorship or the happening of the contingencies insured against other than death . . . . .					
(8) By expiry of term under temporary insurances . . . . .					
(9) By surrender of policy . . . . .					
(10) By surrender of bonus . . . . .					
(11) By forfeiture or lapse . . . . .					
(12) By change and decrease . . . . .					
(13) By being not taken up . . . . .					
Total discontinued					
Total existing at end of year . . . . .					

<sup>1</sup>[A separate statement must be given in respect of each class of life insurance business for which a separate revenue account is submitted <sup>2</sup>[and all amounts stated shall be total gross amounts without taking into account reinsurances ceded or accepted].

Insurers having their principal place of business in <sup>3</sup>[the Provinces] shall give the information required in the form separately for business transacted in India and business transacted outside India and insurers having their principal place of business outside <sup>3</sup>[the Provinces] will furnish information regarding business transacted in India only.]

<sup>1</sup> Ins. by s. 36 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>2</sup> Ins. by s. 48 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>3</sup> Subs. by the A. O. 1948 for "British India"

(The Third Schedule.)

## FORM DDDD.

Particulars of the policies forfeited or lapsed in the last <sup>1</sup>year under review, <sup>2</sup>[and of policies] <sup>3</sup>[revived] and reinstated for full benefits, classified according to the year in which they were issued.

<sup>4</sup> [Year in which the policies were issued.]	Number of policies forfeited or lapsed.	Sum insured under policies in column 2.	Number of policies revived and reinstated for full benefits.	Sum insured under policies in column 4.
1	2	3	4	5
		Rs.	.	Rs.]
Year ending 19 , being the year under review.				
Year ending 19 , being the year previous to that under review.				

And so on, the number of and sum insured under policies forfeited or lapsed in the last <sup>1</sup> year under review being stated after classification according to each of the preceding years in which they were issued.

A separate statement must be given in respect of each class of life insurance business for which a separate revenue account is submitted. <sup>5</sup>[and all amounts stated shall be total gross amounts without taking into account reinsurances ceded or accepted].

Insurers having their principal place of business in <sup>6</sup>[the Provinces] shall give the information required in the form separately for business transacted in India and business transacted outside India and insurers having their principal place of business outside <sup>6</sup>[the Provinces] will furnish information regarding business transacted in India only.

<sup>1</sup> The word "financial" was rep. by s. 36 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>2</sup> Subs. for "less than" by s. 48 of the Insurance (Amendment) Act, 1946 (6 of 1946).

<sup>3</sup> Subs. for "revised" by s. 36 of Act 11 of 1939.

<sup>4</sup> Subs. by s. 48 of Act 6 of 1946 for the original column headings as amended by Act 11 of 1939, s. 36.

<sup>5</sup> Ins. by s. 48 of Act 6 of 1946.

<sup>6</sup> Subs. by the A. O. 1948 for "British India."

(The Third Schedule.)

FORM E—*Imp.* by s. 4 of the Insurance (Amendment) Act, 1944 (7 of 1944).

(The Third Schedule.)

## FORM F.

Form of Revenue Account applicable to Fire Insurance Business, 1[Marine Insurance Business and], 2\* \* Miscellaneous insurance Business, 3\* \* \* \*

Revenue Account of \_\_\_\_\_ for the year ended 19 \_\_\_\_\_  
in respect of \_\_\_\_\_ Business.

	Rs.		Rs.
*Claims under Policies, less Re-insurances (a) (d):		Balance of Account at beginning of the year:	
Paid during the year . . . Rs		Reserve for Unexpired Risks . . . Rs.	
Total estimated liability in respect of outstanding claims at end of the year whether due or intimated . . . Rs.		Additional Reserve (if any) . . . Rs.	
Total		*Premiums, less Re-insurances (d)	
Less—Outstanding at end of previous year (b) . . . Rs		Interest, Dividends and Rents . . . Rs.	
*Commission		Less—Income-tax thereon . . . Rs.	
*Expenses of Management (c) . . .		*Other Income (to be specified) (e) . . .	
*Bad Debts . . .		Loss transferred to Profit and Loss Account . . .	
4[United Kingdom, 5[Indian], Dominion and Foreign Taxes].		Transferred from Appropriation Account . . .	
*Other Expenditure (to be specified)			
Profit transferred to Profit and Loss Account			
Balance of Account at the end of the year as shown in the Balance-Sheet			
Reserve for Unexpired Risks, being per cent. of premium income of year . . . Rs.			
Additional Reserve (if any) . . . Rs			
	Rs.		Rs.

## NOTES.

(a) This heading must include all expenses directly incurred in settling claims.

(b) If in any year the claims actually paid and those still unpaid at the end of that year in respect of the previous year or years are in excess of the amount included in the previous year's Revenue Account as provision for outstanding claims, then the amount of such excess must be shown in the Revenue Account.

(c) If any sum has been deducted from this item and entered on the assets side of the balance-sheet the amount so deducted must be shown separately.

<sup>1</sup> Subs. for "and to" by s. 4 of the Insurance (Amendment) Act, 1944 (7 of 1944).

<sup>2</sup> The words "Accident and" were rep. by s. 19 of the Insurance (Amendment) Act, 1940 (20 of 1940).

<sup>3</sup> The words "including Workmen's Compensation and Motor Car Insurance Business" were rep., *ibid.*

<sup>4</sup> Subs. for "United Kingdom, Foreign and Dominion Taxes" by s. 4 of Act 7 of 1944.

<sup>5</sup> Subs. by the A. O. 1948 for "British India."

<sup>6</sup> The word "British" was rep. by s. 36 of the Insurance (Amendment) Act, 1939 (11 of 1939).

*(The Third Schedule. The fourth Schedule.)*

(d) Where the account is furnished under the provisions of section 11 of the Insurance Act, 1938, separate figures for claims paid to claimants in <sup>1</sup>\*India and claimants outside <sup>1</sup>\*India, and for premiums derived from business effected in <sup>1</sup>\*India and effected outside <sup>1</sup>\*India must be given.

(e) All the amounts received by the insurer directly or indirectly whether from his head office or from any other source outside <sup>1</sup>\*India shall also be shown separately in the revenue account except such sums as properly appertain to the capital account.

\*Where the account is furnished under the provisions of clause (b) of sub-section (2) of section 16 of the Insurance Act, 1938, by an insurer to whom that section applies, separate figures for business within <sup>1</sup>\*India and business out of <sup>1</sup>\*India must be given against the items marked with an asterisk. Against all other items the total amount for the business as a whole may be given.

---

THE FOURTH SCHEDULE.

(See Section 13.)

*Regulations for the preparation of Abstracts of Actuaries'  
Reports and Requirements applicable to such Abstracts.*

PART I.

*Regulations.*

1. Abstracts and Statements must be so arranged that the numbers and letters of the paragraphs correspond with those of the paragraphs of Part II of this Schedule.

2. In showing the proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums, in accordance with the requirements of <sup>2</sup>[paragraph 4] of Part II of this Schedule, no credit is to be taken for any adjustments made in order to secure that no policy is treated as an asset.

3. (1) The average rate of interest yielded in any year by the assets constituting a life insurance fund shall, for the purpose of <sup>3</sup>[paragraph 5] of Part II of this Schedule, be calculated by dividing the interest of the year by the mean fund of the year; and for the purposes of any such calculation the interest of the year shall be taken to be the whole of the interest credited to the life insurance fund during the year after deduction of income-tax charged thereon (any refund of income-tax in respect of expenses of management made during the year being taken into account), and the mean fund of the year shall be ascertained by adding a sum equal to one-half of the amount of the life insurance fund at the beginning of the year to a sum equal to one-half of that fund at the end of the year, and deductions from the aggregate of those two sums an amount equal to one half of the interest of the year.

---

<sup>1</sup> The word "British" was rep. by s. 38 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>2</sup> Subs. for "paragraph 3" by s. 37, *ibid.*

<sup>3</sup> Subs. for "paragraph 4", *ibid.*

*(The Fourth Schedule.)*

(2) For the purposes of the calculation aforesaid either—

- (a) all profits and income arising during the year from sums invested in reversions shall be included in the interest credited to the life insurance fund during the year ; or
- (b) such portion of the life insurance fund as is invested in the purchase of reversions, and the profits and income arising therefrom, shall be excluded from the calculation ; but in that case a statement must be added to the information required under the said <sup>1</sup>[paragraph 5], showing in respect of the portion of the fund so excluded as aforesaid, the average rate of annual profit and income for which credit has been taken during the five years last preceding the valuation date, and explaining the manner in which the said average rate has been calculated.

(3) The information given in accordance with the requirements of the said <sup>1</sup>[paragraph 5] shall show clearly by which of the methods hereinbefore in this regulation mentioned the sums invested in reversions and the profits and income arising therefrom have been dealt with.

4. Every abstract prepared in accordance with the requirements of Part II of this Schedule shall be signed by an actuary and shall contain a certificate by him to the effect that he has satisfied himself as to the accuracy of the valuations made for the purposes thereof and of the valuation data :

Provided that in the case of an abstract prepared on behalf of <sup>2</sup>[an insurer], if the actuary who signs the abstract is not a permanent officer of <sup>3</sup>[the insurer] the certificate as to the accuracy of the valuation data shall be given and signed by the principal officer of <sup>3</sup>[the insurer] and the actuary shall include in the abstract a statement signed by him showing what precautions he has taken to ensure the accuracy of the data.

5. For the purposes of the Schedule the following expressions have the meanings hereby respectively assigned to them, namely :—

“extra premium” means a charge for any risk not provided for in the minimum contract premium ;

“inter valuation period” means, as respects any valuation, the period to the valuation date of that valuation from the valuation date of the last preceding valuation in connection with which an abstract was prepared under this Act or under the enactments repealed by this Act, or, in a case where no such valuation has been made in respect of the class of business in question, from the date on which the insurer began to carry on that class of business ;

---

<sup>1</sup> Subs. for “paragraph 4” by s. 37 of the Insurance (Amendment) Act, 1939 (11 of 1939).

<sup>2</sup> Subs. for “an insurance company”, *ibid.*

<sup>3</sup> Subs. for “The company”, *ibid.*



*(The Fourth Schedule.)*

"maturity date" means the fixed date on which any benefit will be come payable either absolutely or contingently ;

"net premiums" means as respects any valuation the premiums taken credit for in the valuation ;

"premium term" means the period during which premiums are payable ;

"valuation date" means as respects any valuation the date as at which the valuation is made.

## PART II.

*Requirements applicable to an Abstract in respect of Life Insurance Business.*

The following tabular statements shall be annexed to every abstract prepared in accordance with the requirements of this Part of this Schedule, namely:—

- (a) a Consolidated Revenue Account, in the Form G annexed to this Part of this Schedule, for the intervaluation period (except that it shall not be necessary to prepare such an account in respect of any class of business so long as the insurer deposits annually with the Superintendent of Insurance an abstract in respect of that class of business) ; and
- (b) a Summary and Valuation in the Form H annexed to this Part of this Schedule of the policies included at the valuation date in the class of business to which the abstract relates ; and
- (c) a Valuation Balance Sheet in the Form I annexed to this Part of this Schedule ; and
- (d) a statement in Form DDD as set forth in Part II of the Third Schedule of the additions to and deductions from the number of policies and the sums insured thereunder for each class of life insurance <sup>1</sup>[for the intervaluation period (except that it shall not be necessary to prepare such statement in respect of any class of business so long as the insurer deposits annually with the Superintendent of Insurance an abstract in respect of that class of business)].

2\*            \*            \*            \*            \*            \*

and every such abstract shall show—

## 1. The valuation date.

<sup>1</sup> Subs. for "., and" by s. 71 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Clause. (e) was rep. *ibid.*

*(The Fourth Schedule.)*

2. The general principles and full details of the methods adopted in the valuation of each of the various classes of insurances and annuities shown in the said Form H, including statements on the following points:—

- (a) whether the principles were determined by the instruments constituting the company or by its regulations or bye-laws or how otherwise ;
- (b) the method by which the net premiums have been arrived at and how the ages at entry, premium terms and maturity, dates have been treated for the purpose of the valuation ;
- (c) the methods by which the valuation age, period from the valuation date to the maturity date, and the future premium terms, have been treated for the purpose of the valuation ;
- (d) the rate of bonus taken into account where by the method of valuation definite provision is made for the maintenance of a specific rate of bonus ;
- (e) the method of allowing for—
  - (i) the incidence of the premium income ; and
  - (ii) premiums payable otherwise than annually ;
- (f) the methods by which provision has been made for the following matters, namely :—
  - (i) the immediate payment of claims ;
  - (ii) future expenses and profits in the case of limited payment and paid-up policies ;
  - (iii) the reserve in respect of lapsed policies, not included in the valuation, but under which a liability exists or may arise ; and whether any reserves have been made for the matters aforesaid ;
- (g) whether under the valuation method adopted any policy would be treated as an asset, and, if so, what steps, if any, have been taken to eliminate such asset ;
- (h) a statement of the manner in which policies on underaverage lives and policies subject to premiums which include a charge for climatic, military or other extra risks have been dealt with ; and
- (i) the rates of exchange at which liabilities in respect of policies issued in foreign currencies have been converted into rupees and what provision has been made for possible increase of liability arising from future variations in the rates of exchange.

3. The table of mortality used, and the rate of interest assumed, in the valuation.

4. The proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums, separately specified in respect of insurances with immediate profits, with deferred profits, with profits under discounted bonus systems, and without profits.

*(The Fourth Schedule.)*

5. The average rates of interest yielded by the assets, whether invested or uninvested, constituting the life insurance fund for each of the years covered by the valuation date.

6. The basis adopted in the distribution of profits as between the insurer and policy-holders, and whether such basis was determined by the instruments constituting the company, or by its regulations or bye-laws, or how otherwise.

7. The general principles adopted in the distribution of profits among policy-holders, including statements on the following points, namely :—

(a) whether the principles were determined by the instruments constituting the company or by its regulations or bye-laws, or how otherwise ;

(b) the number of years' premiums to be paid, period to elapse and other conditions to be fulfilled before a bonus is allotted ;

(c) whether the bonus is allotted in respect of each year's premium paid, or in respect of each completed calendar year or year of assurance or how otherwise ; and

(d) whether the bonus vests immediately or allocation, or, if not, the conditions of vesting.

8. (1) The total amount of profits arising during the intervaluation period, including profits paid away and sums transferred to reserve funds or other accounts during that period, and the amount brought forward from the preceding valuation (to be stated separately) and the allocation of such profits—

(a) to interim bonus paid ;

(b) among policy-holders with immediate participation, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses) ;

(c) among policy-holders with deferred participation, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses) ;

(d) among policy-holders in the discounted bonus class, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses) ;

## (The Fourth Schedule.)

(e) to the insurer or, in the case of an insurance company, among shareholders or to shareholders' accounts (any such sums passed through the accounts during the inter-valuation period to be separately stated) ;

(f) to every reserve fund or other fund or account (any such sums passed through the accounts during the inter-valuation period to be separately stated) ;

(g) as carried forward unappropriated.

(2) Specimens of bonuses allotted <sup>1</sup>[as a result of this valuation] to policies for one thousand rupees—

(a) for the whole term of life effected at the respective ages of 20, 30 and 40, and having been in force respectively for five years, ten years and upwards at intervals of ten years ; and

(b) for endowment insurances effected at the respective ages of 20, 30 and 40, for endowment terms of fifteen, twenty and thirty years, and having been in force respectively for five years, ten years and upwards at intervals of ten years ;

together with the amounts apportioned under the various manners in which the bonus is receivable.

9. A statement in Form J annexed to this Part of this Schedule of specimen policy reserve values held or required to be held according to the methods adopted in the valuation, and specimen minimum surrender values in respect of whole life insurance policies for Rs 1,000 with premiums payable throughout life effected at the respective ages of 20, 30, 40 and 50, and immediately on payment of the first, second, third, fourth, <sup>2</sup>[fifth,] sixth, seventh, eighth, ninth, tenth, fifteenth and twentieth annual premium ; with similar specimen policy reserve values and specimen surrender values in respect of whole life insurance policies subject to premiums payable for 20 years and of endowment insurance policies maturing at age 55.

10. A statement showing how the liability under any disability clause in a policy has been determined in the valuation with full information of the tables of sickness or accident used for the purpose.

<sup>1</sup> Subs. for "as the valuation date" by s. 71 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Ins., *ibid.*

## (The Fourth Schedule.)

## [FORM G.]

Consolidated Revenue Account of \_\_\_\_\_ for \_\_\_\_\_ years  
Commencing \_\_\_\_\_ and ending \_\_\_\_\_

	Business within India. (a).	Total.		Business within India. (a).	Total.
Rs.	Rs.		Rs.	Rs.	
Claims under Policies (including provision for claims due or intimated), less Re-insurances—			Balance of Life Insurance Fund at the beginning of the period.		
By death . . . . .			Premiums, less Re-insurances—		
By maturity . . . . .			(i) First year premiums.		
Annuities, less Re insurances. . . . .			(ii) Renewal premiums.		
Surrenders (including surrenders of Bonus), less Re-insurances.			(iii) Single premiums.		
Bonuses in cash, less Re-insurances.			Consideration for Annuities granted, less Re-insurances (c).		
Bonuses in Reduction of Premiums, less Re-insurances.			Interest, Dividends and Rents Rs.		
Expenses of Management (b) (e)—			Less — Income-tax thereon (d). Rs. Registration fees.		
1. (a) Commission to insurance agents (less that on Re-insurances).			Other Income (to be specified).		
(b) Allowances and Commission (other than commission included in sub item (a) preceding).			Loss transferred to Profit and Loss Account.		
2. Salaries, etc. (other than to agents and those contained in sub-item 1 (b) preceding).			Transferred from Appropriation Account.		
3. Travelling expenses					
4. Directors' fees . . . . .					
5. Auditors' fees . . . . .					
6. Medical fees . . . . .					
7. Law charges . . . . .					
8. Advertisements . . . . .					
9. Printing and Stationery .					
10. Other expenses of management (accounts to be specified). . . . .					

<sup>1</sup> Subs. for the original Form G by s. 71 of the Insurance (Amendment) Act, 1941 (18 of 1941).

## FORM G—contd.

	Business within India. (a).	Total.		Business within India. (a).	Total.
	Rs.	Rs.		Rs.	Rs.
11. Other payments (accounts to be specified).					
12. Rent for offices belonging to and occupied by the insurer.					
13. Rents of other offices occupied by the insurer.					
Bad debts . . . . .					
United Kingdom, <sup>1</sup> [Indian], Dominion and Foreign Taxes.					
Other expenditure (to be specified).					
Profit transferred to Profit and Loss Account.					
Balance of Life Insurance Fund at end of the period as shown in the Balance- sheet.					
Rs			Rs.		

## NOTES.

(a) These columns apply to all business except business the premiums in respect of which are ordinarily paid outside India. If any question arises whether any premiums are ordinarily paid inside or outside India, the Superintendent of Insurance shall decide the question and his decision shall be final.

(b) If any sum has been deducted from this item and entered on the assets side of the balance-sheet, the amount so deducted must be shown separately.

(c) All single premiums for annuities, whether immediate or deferred, must be included under this heading.

(d) <sup>1</sup>[Indian], United Kingdom, Foreign and Dominion income-tax on Interest, Dividends and Rents must be shown under this heading, less any rebates of income-tax recovered from the revenue authorities in respect of expenses of management. The separate heading on the other side of the account is for United Kingdom, <sup>1</sup>[Indian], Foreign and Dominion taxes, other than those shown under this item.

(e) In the case of an insurer having his principal place of business outside <sup>2</sup>[the Provinces] the expenses of management for the total business need not be split up into the several sub-heads, if they are not so split up in his own country.]

<sup>1</sup> Subs. by the A. O. 1948 for "British Indian".

<sup>2</sup> Subs. by the A. O. 1948 for "British India".



(The Fourth Schedule.)

FORM H—*contd.*

Description of Transactions.	Particulars of the Policies for Valuation.					Valuation.		
	Number of policies.	Sums Assured.	Bonuses.	Office yearly premiums.	Net yearly premiums.	Sums Assured and Bonuses.	Office yearly premiums.	Net yearly premiums.
<b>DIVISION II.</b>								
<i>Annuities on Lives.</i>								
Immediate Annuities . . . . .								
Deferred Annuities with return of premiums . . . . .								
Deferred Annuities without return of premiums . . . . .								
Others classes (to be specified) . . . . .								
Total Annuities . . . . .								
<i>Deduct—Re-insurances</i> . . . . .								
Net Annuities on Lives . . . . .								
Total of the results (after deduction of Re-insurances) . . . . .								

## NOTES.

1. Items in this Summary are to be stated to the nearest rupee.
2. No policy of insurance upon the lives of a group of persons, whereby sums assured are payable in respect of the several persons included in the group, is to be included in Groups A, B, C, or D of this Form: any such policies must be shown in a separate Group which must be added to the Form.
3. If policies without participation in profits but with a guaranteed rate of bonus are issued, they must be separately specified in Group D of this Form.
4. Policies under which there is a waiver of premiums during disability must be shown as a separate class.
5. Separate forms must be prepared in respect of classes of policies valued by different tables of mortality or at different rates of interest or involving the valuation of net premiums on different bases.





## (The fourth Schedule)

## FORM J.

Specimen policy reserve values and minimum surrender values under a policy for Rs. 1,000.

1[Number of annual premiums paid up to the valuation date.]	Age at entry 20.		Age at entry 30.		Age at entry 40.		Age at entry 50.	
	Reserve value.	Minimum surrender value.	Reserve value.	Minimum surrender value.	Reserve value.	Minimum surrender value.	Reserve value.	Minimum surrender value.
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
15.								
20.								

NOTE.—Items in this Form to be stated to the nearest rupee

<sup>2</sup>[NOTE.—The reserve value is to be based on the rate of office premium payable by an insured who entered at the age shown and who had, by the valuation date, paid the number of annual premiums shown in the first column.]

<sup>1</sup> Subs. for the words "Number of premiums paid" by s. 71 of the Insurance (Amendment) Act, 1941 (13 of 1941).

<sup>2</sup> Ins., *ibid.*

*(The Fifth Schedule.)*

## THE FIFTH SCHEDULE.

*(See Section 18.)*

*Regulations for preparing statements of business in force and requirements applicable to such statements.*

## PART I.

*Regulations.*

1. Statements prepared under this Schedule must be prepared, so far as practicable, in tabular form and must be identified by numbers and letters corresponding with those of the paragraphs of Part II of this Schedule.

2. Except with respect to rates of premium or contribution, items in statements prepared under this Schedule are to be shown to the nearest rupee.

3. Extra premium shown in the forms of Summary and Valuation prepared under the Fourth Schedule to this Act must not be included in statements prepared under this Schedule.

4. Every statement prepared under this Schedule shall be signed by the actuary making the investigation in connection with which it is prepared.

5. For the purposes of this Schedule the following expressions have the meanings hereby respectively assigned to them, namely :—

- (a) "annual loading" means the provision made for future expenses and profits ;
- (b) "extra premiums" means a charge for any risk not provided for in the minimum contract premium ;
- (c) "net premiums" means the premiums taken credit for in the valuation in connection with which any statement is prepared ; and
- (d) " valuation date" means as respects any valuation the date as at which the valuation is made.

---

PART II.

*Requirements for statements applicable to Life Insurance Business.*

The statements required to be prepared under this Part of this Schedule are as follows, namely :—

*(The Fifth Schedule).*

1. Statements, separately prepared in respect of policies with and without participation in profits, showing—

(a) as respects policies for the whole term of life, the rates of office premiums charged, in accordance with the published tables in use, for new policies giving the rates for decennial ages at entry from 20 to 70 inclusive ; and

(b) as respects endowment insurance policies, the rates of office premiums charged, in accordance with the published tables in use, for new policies with original terms of ten, fifteen, twenty, thirty and forty years, giving the rates for decennial ages at entry from 20 to 40 inclusive, but excluding policies under which the age at maturity exceeds 60.

2. Statements, separately prepared in respect of policies with immediate profits, with deferred profits, with profits under discounted bonus systems, and without profits, showing in quinquennial groups—

(a) as respects policies for the whole term of life—

(i) the total amount assured (specifying sums assured and reversionary bonuses separately), grouped according to ages attained ;

(ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable throughout life, and of the corresponding net premiums, grouped according to ages attained ; and

(iii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable for a limited number of years, and, either, the corresponding net premiums grouped in accordance with the grouping adopted for the purposes of the valuation, or, the annual loading reserved for the remaining duration of the policies, grouped according to ages attained ;

(b) as respects endowment insurance policies—

(i) the total amount assured (specifying sums assured and reversionary bonuses separately), grouped in accordance with the grouping adopted for the purposes of the valuation ; and

(ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable, and of the corresponding net premiums, grouped in accordance with the grouping adopted for the purposes of the valuation :

*(The Fifth Schedule.)*

Provided that—

- (a) as respects endowment insurance policies which will reach maturity in less than five years, the information required by sub-paragraph (b) (i) of this paragraph must be given for each year instead of in quinquennial groups ; and
- (b) where the office premiums payable under policies for the whole term of life for a limited number of years, or the office premiums payable under endowment insurance policies, or the corresponding net premiums, are grouped for the purposes of the valuation otherwise than according to the number of years' payments remaining to be made, or, where the sums assured under endowment insurance policies are grouped for the purposes of the valuation otherwise than according to the years in which the policies will mature for payment or in which they are assumed to mature if earlier than the true year then, in any such case the valuation constants and an explanation of the method by which they are calculated must be given for each group, and in the case of the sums assured under endowment insurance policies a statement must also be given of the amount assured maturing for payment in each of the two years following the valuation date.

3. Statements as respects any policies in force under which premiums cease to be payable, whether permanently or temporarily, during disability arising from sickness or accident, showing the total amount of the office premiums payable.

4. Statements as respects immediate annuities on single lives for the whole term of life, separately prepared in respect of annuities on male and female lives, showing in quinquennial age groups the total amount of such annuities.

5. Statements as respects deferred annuities, separately prepared in respect of annuities on male and female lives, showing the specimen reserve values for annuities of one hundred rupees which will be produced on maturity on the basis of valuation adopted at ages, in the case of male lives, 60 and 65, and in the case of female lives, 55 and 60; the said statements must show the specimen reserve values which will be produced under the table of annual premiums in use for new policies, and if under any other table of annual premiums in use for any other deferred annuity policies in force smaller reserve values will be produced, the like specimens of these must also be given.

6. Statements as respects any policies of insurance upon the lives of a group of persons, whereby sums assured are payable in respect of the several persons included in the group, showing the total claims paid since the date as at which the last statements were prepared under this Part of this Schedule or, where no such statements have been prepared, since the date on which the insurer began to carry on the class of business to which the statements relate, and the reserve for unexpired risks and outstanding claims.

## THE SIXTH SCHEDULE

(See section 55.)

*Rule as to the valuation of the Liabilities of an insurer in Insolvency or Liquidation.*

The liabilities of an insurer in respect of current contracts effected in the course of life insurance business including annuity business, shall be calculated by the method and upon the basis to be determined by an actuary approved by the Court, and the actuary so approved shall, in determining as aforesaid, take into account—

- (a) the purpose for which such valuation is to be made,
- (b) the rate of interest and the rates of mortality and sickness to be used in valuation, and
- (c) any special directions which may be given by the Court.

The liabilities of an insurer in respect of current policies other than life policies shall be such portion of the last premium paid as is proportionate to the unexpired portion of the policy in respect of which the premium was paid.

## THE MANŒUVRES, FIELD FIRING AND ARTILLERY PRACTICE ACT, 1938.

Act No, V of 1938.<sup>1</sup>

[12th March, 1938.]

### An Act to provide facilities for Military manœuvres and for field firing and artillery practice.

**W**HEREAS it is expedient to provide facilities for military manœuvres and for field firing and artillery practice; It is hereby enacted as follows:—

1. (1) This Act may be called the Manœuvres, Field Firing and Artillery Practice Act, 1938.

**Short title  
and extent.**

(2) It extends to <sup>2</sup>[all the Provinces of India].

<sup>1</sup> For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, p. 326; for Report of the Select Committee see *ibid.*, 1937 Pt. V, p. 272.

<sup>2</sup> Subs. by the A.O. 1948 for "the whole of British India".

## CHAPTER I.

## MANŒUVRES.

Power of  
Provincial  
Govern-  
ment to  
authorise  
manœuvres.

2. (1) The Provincial Government may, by notification in the local official Gazette, authorise the execution of military manœuvres over any area specified in the notification during a specified period not exceeding three months:

Provided that the same area or any part thereof shall not ordinarily be so specified more than once in any period of three years.

(2) The Provincial Government shall publish notice of its intention to issue a notification under sub-section (1) as early as possible in advance of the issue of the notification, and no such notification shall be issued until the expiry of three months from the date of the first publication of such notice in the local official Gazette.

(3) The notice required by sub-section (2) shall be given by publication in the local official Gazette and shall also be given throughout the area which it is proposed to specify in the notification by publication in the manner prescribed by rules made under section 18, and shall be repeated by like publication one month and one week as nearly as may be before the commencement of the manœuvres.

Powers  
exercisable  
for pur-  
poses of  
manœu-  
vres.

3. (1) Where a notification under sub-section (1) of section 2 has been issued, such persons as are included in the military forces engaged in the manœuvres may, within the specified limits and during the specified periods,—

- (a) Pass over, or encamp, construct military works of a temporary character, or execute military manœuvres on, the area specified in the notification, and
- (b) supply themselves with water from any source of water in such area:

Provided that nothing herein contained shall authorise the taking of water from any source of supply, whether belonging to a private owner or a public authority, of an amount in excess of the reasonable requirements of the military forces or of such amount as to curtail the supply ordinarily required by those entitled to the use of such water supply.

(2) The provisions of sub-section (1) shall not authorise entry on or interference with any well or tank held sacred by any religious community or any place of worship or ground attached thereto except for the legitimate purpose of offering prayers or any place or building reserved or used for the disposal of the dead, or any dwelling house or premises attached thereto or any educational institution, factory, workshop or store or any premises used for the carrying on of any trade, business or manufacture or any garden or pleasure ground, or any ancient monument as defined in section 2 of the Ancient Monuments Preservation Act, 1904.

4. The Officer in Command of the military forces engaged in the manœuvres shall cause all lands used under the powers conferred by this Chapter to be restored, as soon and as far as practicable, to their previous condition.

**Duty of Officer Commanding to repair damage.**

5. Where a notification issued under section 2 authorises the execution of military manœuvres compensation shall be payable from the Defence Estimates for any damage to person or property or interference with rights or privileges arising from such manœuvres including expenses reasonably incurred in protecting person, property, rights and privileges.

**Right to compensation for damage caused by manœuvres.**

6. (1) The Collector of the district in which any area utilised for the purpose of manœuvres is situated shall depute one or more Revenue Officers to accompany the forces engaged in the manœuvres for the purpose of determining the amount of any compensation payable under section 5.

**Method of assessing compensation.**

(2) The Revenue Officer shall consider all claims for compensation under section 5 and determine, on local investigation and where possible after hearing the claimant, the amount of compensation, if any, which shall be awarded in each case; and shall disburse on the spot to the claimant the compensation so determined as payable.

(3) Any claimant, dissatisfied with a refusal of the Revenue Officer to award him compensation or with the amount of compensation awarded to him by the Revenue Officer, may, at any time within fifteen days from the communication to him of the decision of the Revenue Officer, give notice to the Revenue Officer of his intention to appeal against the decision.

(4) Where any such notice has been given, the Collector of the district shall constitute a commission consisting of himself as chairman, a person nominated by the Officer Commanding the forces engaged in the manœuvres and two persons nominated by the District Board, and the commission shall decide all appeals of which notice has been given.

(5) The commission may exercise its powers notwithstanding the absence of any member of the commission, and the chairman of the commission shall have a casting vote in the case of an equal division of opinion.

(6) The decision of the commission shall be final and no suit shall lie in any Civil Court in respect of any matter decided by the commission.

(7) No fee shall be charged in connection with any claim, notice, appeal, application or document filed before the Revenue Officer, Collector or the commission under this section.

7. If, within the area and during the period specified in a notification under sub-section (1) of section 2, any person—

(a) wilfully obstructs or interferes with the execution of the manœuvres, or

(b) without due authority enters or remains in any camp, or



(c) without due authority interferes with any flag or mark or any apparatus used for the purposes of the manœuvres,  
he shall be punishable with fine which may extend to ten rupees.

## CHAPTER II.

### FIELD FIRING AND ARTILLERY PRACTICE.

#### Definitions.

8. In this Chapter—

- (a) “field firing” includes air armament practice;
- (b) “notified area” means an area defined in a notification issued under sub-section (1) of section 9.

#### Power of Provincial Government to authorise field firing and artillery practice.

9. (1) The Provincial Government may, by notification in the local official Gazette, define any area as an area within which for a specified term of years the carrying out periodically of field firing and artillery practice may be authorised.

(2) The Provincial Government may, by notification in the local official Gazette, authorise the carrying out of field firing and artillery practice throughout a notified area or any specified part thereof during any period or periods specified in the notification.

(3) Before any notification under sub-section (2) is issued, the Provincial Government shall publish notice of its intention to issue such notification as early as possible in advance of the issue of the notification, and no such notification shall be issued until the expiry of two months from the date of the first publication of the notice in the local official Gazette.

(4) The notice required by sub-section (3) shall be given by publication in the local official Gazette and shall also be given throughout the notified area by publication in some newspaper circulating in and in the language commonly understood in that area and by beat of drum and by affixation in all prominent places of copies of the said notice in the language of the locality and in such other manner as may be prescribed by rules made under section 18 and shall be repeated by like publication one week as nearly as may be before the commencement of the period or of each period specified in the notification:

Provided that the fact of the said beat of drum and affixation shall be verified in writing by one headman and two other literate inhabitants of the locality and provided further that such notice by the beat of drum shall be given seven and two days as nearly as may be before the commencement of such field firing and artillery practice.

#### Powers exercisable for purposes of field firing

10. (1) Where a notification under sub-section (2) of section 9 has been issued, such persons as are included in the forces engaged in field firing or artillery practice may, within the notified area or specified part thereof during the specified period or periods,—

- (a) carry out field firing and artillery practice with lethal missiles, **and artillery practice.** and
- (b) exercise, subject to the provisions of sections 3 and 4, any of the rights conferred by section 3 on forces engaged in military manœuvres:

Provided that the provisions of sub-section (2) of section 3 shall not debar entry into, or interference with, any place specified in that sub-section, if it is situated in an area declared to be a danger zone under sub-section (2) of this section, to the extent that may be necessary to ensure the exclusion from it of persons and domestic animals:

Provided further that in the case of a dwelling house occupied by women adequate warning shall be given through a local inhabitant and entry shall be effected after such warning in the presence of two respectable inhabitants of the locality.

(2) The Officer Commanding the forces engaged in any such practice may, within the notified area or specified part thereof, declare any area to be a danger zone, and thereupon the Collector shall, on application made to him by the Officer Commanding the forces engaged in the practice, prohibit the entry into and secure the removal from such danger zone of all persons and domestic animals during the times when the discharge of lethal missiles is taking place or there is danger to life or health.

11. The provisions of sections 5 and 6 shall apply in the case of field firing and artillery practice as they apply in the case of military manœuvres: **Compensation.**

Provided that the compensation payable under this section shall include compensation for exclusion or removal from any place declared to be a danger zone of persons or domestic animals, such compensation to be disbursed at not less than the minimum rates prescribed by rules made under section 13 before the exclusion or removal is enforced, and shall also include compensation for any loss of employment or deterioration of crops resulting from any such exclusion or removal.

12. If, during any period specified in a notification issued under sub-section (2) of section 9, any person within a notified area— **Offences.**

- (a) wilfully obstructs or interferes with the carrying out of field firing or artillery practice, or
- (b) without due authority enters or remains in any camp, or
- (c) without due authority enters or remains in any area declared to be a danger zone at a time when entry thereto is prohibited, or
- (d) without due authority interferes with any flag or mark or target or any apparatus used for the purposes of the practice,

he shall be punishable with fine which may extend to ten rupees.

*Indian Finance Act, 1938.*

## CHAPTER III.

## GENERAL.

**Power to  
make rules.**

13. The Provincial Government may, by notification in the local official Gazette, make rules—

- (a) prescribing the manner in which the notices required by sub-section (2) of section 2 and sub-section (3) of section 9 shall be published in the areas concerned.
- (b) regulating the use under this Act of land for manœuvres or field firing and artillery practice in such manner as to secure the public against danger and to enable the manœuvre, or practice, to be carried out without interference and with the minimum inconvenience to the inhabitants of the areas affected;
- (c) regulating the procedure of the Revenue Officers and commissions referred to in section 6 in such manner as to secure due publicity regarding the method of making claims for compensation and preferring appeals from original awards of compensation, the expeditious settlement of claims and of appeals and the payment of compensation so far as possible direct to the claimants; and
- (d) defining the principles to be followed by the Revenue Officers and commissions referred to in section 6 in assessing the amount of compensation to be awarded.

THE INDIAN FINANCE ACT, 1938.<sup>1</sup>

[26th March, 1938.]

An Act <sup>2</sup>\* \* \* \* \* to fix rates of income-tax and super-tax.

**W**HEREAS it is expedient <sup>2</sup>\* \* \* \* \* to fix rates of income-tax and super-tax; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Finance Act, 1938.

(2) It extends to <sup>3</sup>[all the Provinces of India] including <sup>4</sup>\* \* \* the Sonthal Parganas.

**Short title  
and extent.**

<sup>1</sup> This Act was made by the Governor General under S. 67-B of the Government of India Act as set out in Ninth Schedule of the Government of India Act, 1935. No number was given to this Act.

For Statement of Objects and Reasons see Gazette of India; 1938, Pt. V, p. 30.

The Act has been applied to all partially excluded areas of the Province of Orissa, see Orissa Finance First Validating Regulation, 1941 (4 of 1941).

<sup>2</sup> The words "to fix the duty on salt manufactured in, or imported by land into certain parts of British India, to fix maximum rates of postage under the India Post Office Act, 1898, and" were rep. by s. 2 and Sch. I of the Repealing and Amending Act, 1942 (25 of 1942).

<sup>3</sup> Subs. by the A. O. 1948 for "the whole of British India".

<sup>4</sup> The words "British Baluchistan and" omitted by the A.O. 1948.

1938 : Act VIII.]

Indian Tea Control.

*Ss. 2. [Salt duty] and 3. [Inland postage rates] were rep. by s. 2 and Sch. I of the Repealing and Amending Act, 1942 (25 of 1942).*

4. (1) Income-tax for the year beginning on the 1st day of April, 1938, shall be charged at rates applicable to the total income of each assessee the same, and increased in each case by the same fraction of the amount of the rate, as for the year beginning on the 1st day of April, 1937. **Income-tax and super-tax.**

XI of 1922.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1938, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be the same rates, increased in each case by the same fraction of the amount of the rate, as for the year beginning on the 1st day of April, 1937.

XI of 1922.

(3) For the purposes of sub-section (1) "total income" means total income as determined in accordance with the provisions of the Indian Income-tax Act, 1922.

[THE SCHEDULE]—Rep. by s. 2 and Sch. I of the Repealing and Amending Act, 1942 (25 of 1942).

## THE INDIAN TEA CONTROL ACT, 1938.

### CONTENTS.

#### SECTIONS.

1. Short title, extent, commencement and duration,
2. Definitions.

#### CHAPTER I.

##### THE INDIAN TEA LICENSING COMMITTEE.

3. Constitution of the Indian Tea Licensing Committee.
4. Vacancies.
5. Sub-committees and executive officers.
- 5A. Power of Central Government to appoint additional member of Committee to act as Chairman.
6. Power to make by-laws.
7. Central Government's power of control.
8. Keeping and auditing of accounts
9. Dissolution of the Committee.
10. Power to make rules.

## CHAPTER II.

## CONTROL OVER THE EXPORT OF TEA.

## SECTIONS.

11. Limitation of application of Chapter.
12. Control of export of tea and tea seed.
13. Indian export allotment.
14. Export quotas and crop basis.
- 14A. Power of Central Government to revise crop basis.
15. Right to export licences.
16. Grant of export licences.
17. Special export licences.
18. Committee to maintain accounts of quotas.
19. Tea for export to be covered by licence or permit.
20. Power of Committee to call for returns.
21. Power of Committee to require evidence of ownership.
22. Fees.
23. Power to make rules.
24. Bar of jurisdiction.
25. Export of tea produced in Acceding States.
- 25A. Power of Central Government to make orders.

---

CHAPTER III.

## CONTROL OVER THE EXTENSION OF TEA CULTIVATION.

26. Method of control of extension of tea cultivation.
27. Limitations to the extension of tea cultivation.
28. Grant of permission to plant tea.
29. Grant of permission to plant tea in special circumstances.
30. Tea nurseries.
31. Appeal to Provincial Government.
32. Power of the Committee to call for returns and to inspect.

---

CHAPTER IV.

## PENALTIES AND PROCEDURE

33. Penalty for illicit export.
34. Penalty for making false return.
35. Penalty for obstructing inspection of tea estate.
36. Penalty for illicit cultivation.
37. Removal of tea planted without permission.
38. Trial of offences under sections 34, 35 and 36.

## CHAPTER V.

## SAVINGS.

39. Savings.

## CHAPTER VI.

## SUSPENSION OF OPERATION OF ACT.

40. Suspension of operation of Act.

## THE SCHEDULE

Act No. VIII of 1938.<sup>1</sup>

[28th March, 1938.]

An Act to provide for the control of export of tea from and for the control of the extension of the cultivation of tea in <sup>2</sup>[the Provinces of India].

**W**HEREAS it is expedient, for the purpose of implementing the agreement which the Central Government has entered into with the Governments of Ceylon and the Netherlands India to give effect to the provisions of the International Agreement made between associations representing the tea growers of India, Ceylon and the Netherlands India, to provide for the control of the export of tea from, and for the control of the extension of the cultivation of tea in, <sup>2</sup>[the Provinces of India]; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Tea Control Act, 1938.

(2) It extends to <sup>3</sup>[all the Provinces of India].

(3) It shall come into force on the 1st day of April, 1938.

<sup>4</sup>[(4) It shall remain in force up to the 31st day of March, 1950.]

**Short title,  
extent,  
commence-  
ment and  
duration.**

<sup>1</sup> For the Statement of Objects and Reasons, see Gazette of India, 1937, Pt. V, p. 306; for the Report of the Select Committee, see *ibid.*, 1938, Pt. V, p. 1.

This Act has been applied to:—

The district of Ranchi, see Notification no. 1371 HC-68 Com., dated 23rd June, 1938, Bihar Gazette, 1938, Pt. II p. 700.

Jaunsar-Bawan pargana of Dehra Dun district, U. P. Government Notification No. 4011/XVIII--265, dated 17th August, 1938;

The Chittagong hill tracts with effect from 1st April, 1938 by late Bengal Government Notifications Nos. 20802—E.A., dated 27th September, 1938 and 11709—E.A., dated 9th November, 1939;

The Darjeeling district with effect from 1st April, 1938, by late Bengal Government Notifications Nos. 739-Com., dated 8th March, 1939 and 3288-Com., dated 1st November, 1939.

The Act has been extended to the excluded and partially excluded areas in Assam, see Notification No. 3443-G.S., dated 8th August, 1938, Assam Gazette, 1938, Pt. II, p. 1134.

<sup>2</sup> Subs. by the A. O. 1948 for "British India".

<sup>3</sup> Subs. by the A. O. 1948 for "the whole of British India".

<sup>4</sup> Subs. by s. 2 of the Indian Tea Control (Amendment) Act, 1948 (19 of 1948) for sub-section (4) as subs. by the Indian Tea Control (Amendment) Act, 1943 (12 of 1943), s. 2, for the original sub-section.

## (Chapter I.—The Indian Tea Licensing Committee)

## Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) "Committee" means the Indian Tea Licensing Committee constituted under this Act;
- (b) "Customs-collector" means a Customs-collector as defined in VIII of clause (c) of section 3 of the Sea Customs Act, 1878, for the 1878. purposes of that Act, or of that Act, as applied to the import and export of goods by air, or a Collector of Land Customs as defined in clause (c) of section 2 of the Land Customs Act, XXI of 1924, as the case may be;
- (c) "export" means to take out of [the Provinces] by land, sea or air to any place outside India other than the French and Portuguese Settlements bounded by India or a country notified in this behalf by the Central Government by notification in the official Gazette;
- (d) "Indian export allotment" means the total quantity of tea which may be exported during any one financial year;
- (e) "owner" includes any agent of an owner;
- (f) "prescribed" means prescribed by rules made under this Act;
- 2[(g) "standard export figure" means such quantity as the Central Government may by notification in the official Gazette specify;]
- (h) "tea" means—
  - (i) in Chapter III and Chapter IV, [and in the Schedule] the plant <sup>4</sup>[*Theasinensis*]; and
  - (ii) elsewhere, the commodity known as tea made from the leaves of the plant <sup>4</sup>[*Theasinensis*] including green tea but excluding tea waste; and
  - (i) "tea seed" includes seeds, roots, stumps, cuttings, buds, and any living portion of the plant <sup>4</sup>[*Theasinensis*] which may be used to propagate that plant.

## CHAPTER I.

## THE INDIAN TEA LICENSING COMMITTEE.

## Constitution of the Indian Tea Licensing Committee.

3. (1) The Central Government shall constitute a Committee, to be called the Indian Tea Licensing Committee, consisting of the following members:—

<sup>1</sup> Subs. by the A. O. 1948 for "British India".

<sup>2</sup> Subs. by the Indian Tea Control (Amendment) Act, 1948 (10 of 1948) s. 3, for the original clause.

<sup>3</sup> Ins. by s. 3 of the Indian Tea Control (Amendment) Act, 1948 (12 of 1948).

<sup>4</sup> Subs. for "*Camellia Thea* (Linn.)" by s. 3 of Act 19 of 1948.

## (Chapter I.—The Indian Tea Licensing Committee.)

Vacancies.

XXIV of  
1933.

- (a) one member to be nominated by each of the following bodies, namely:—
- (i) the Indian Tea Association, Calcutta,
  - (ii) the Assam Branch of that Association,
  - (iii) the Surma Valley Branch of that Association,
  - (iv) the Dooars Planters Association,
  - (v) the Indian Tea Planters Association, Jalpaiguri, and the Terai Indian Planters Association, Terai, acting together, and
  - (vi) the Darjeeling Planters Association and the Terai Planters Association, acting together;
- (b) two members to be elected in the prescribed manner by and from among Indian owners of tea estates to which export quotas were allotted under the Indian Tea Control Act, 1933, for the financial year beginning on the 1st day of April, 1937, one to represent the Indian Tea Planters of the Assam Valley and one to represent the Indian Tea Planters of <sup>1</sup>[the Cachar District and the State of Tripura] <sup>2</sup>\* \* \* \* ;
- (c) three members to be nominated by the United Planters Association of Southern India, one to represent tea estates in <sup>3</sup>[the Provinces] and one to represent tea estates in <sup>4</sup>[the Acceding States];
- (d) one member to be nominated by the Government of the Indian State of Travancore to represent the tea estates in that State;
- (e) one member to be elected in the prescribed manner by and from among Indian owners of tea estates to represent tea estates in Southern India excluding Travancore owned by Indians; and
- (f) one member to be elected by owners of tea gardens of Kangra, Dehra Dun, Kumaon Behar and other unrepresented Tea Estates.

<sup>5</sup>[(2) Members nominated or elected under sub-section (1) shall hold office for the duration of this Act.

(3) The Committee shall be a body corporate by the name of the Indian Tea Licensing Committee, having perpetual succession and a common seal, with power to acquire and hold property and to contract, and shall by the said name sue and be sued.]

4. (1) If any authority or body fails to make within two months any nomination or election which it is entitled to make under section 3, the Central Government may itself nominate a member to fill the vacancy.

<sup>1</sup> Subs. by the A. O. 1948 for "the Surma Valley, the Indian State of Tripura".

<sup>2</sup> The words "the Chittagong Hill Tracts and the District of Chittagong" were rep. by the A. O. 1948.

<sup>3</sup> Subs. by the A. O. 1948 for "British India".

<sup>4</sup> Subs. by the A. O. 1948 for "Indian States".

<sup>5</sup> Subs. by the s. 4 of the Indian Tea Control (Amendment) Act, 1948 (12 of 1948) for the original sub-sections (2) and (3).



## (Chapter I.—The Indian Tea Licensing Committee.)

(2) Where a member of the Committee dies, resigns, ceases to reside in India or becomes incapable of acting, the Central Government may, [in the case of an elected member, nominate a successor chosen to represent the body entitled to make the first election under section 3, and in the case of a nominated member, nominate a successor on the recommendation of the authority or body entitled to make the first nomination under section 3, or, if such recommendation is not made within two months, without such recommendation.]

(3) No act done by the Committee shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Committee.

**Sub-committees and executive officers.**

5. The Committee shall elect a chairman from amongst its members, and may appoint such sub-committees and executive officers as may be necessary for the efficient performance of the duties imposed upon it by this Act.

**Power of Central Government to appoint additional member of Committee to act as chairman.**

<sup>2</sup>[5A. Notwithstanding anything elsewhere contained in this Act, the Central Government may appoint any person to be an additional member of and to act as chairman of, the Committee, and on such appointment being made the chairmen of the Committee elected under section 5 shall cease to exercise the functions of chairman.]

**Power to make by-laws.**

6. (1) The Committee may make by-laws consistent with this Act and with the rules made thereunder for all or any of the following matters, namely:—

- (a) the regulation of the procedure to be followed at meetings of the Committee;
- (b) the appointment of sub-committees;
- (c) the delegation to sub-committees members or officers of the Committee of any of the powers of the Committee under this Act;
- (d) the determination of the travelling allowances of the members or officers of the Committee or of the members of a sub-committee;
- (e) the appointment, promotion and dismissal of officers, assessors and servants of the Committee, and the creation and abolition of appointments of such officers, assessors and servants;
- (f) the regulation of the grant of pay and leave to such officers, assessors and servants; and

<sup>1</sup>Subs. for "on the recommendation of the authority or body which is entitled to make the first nomination or election under section 3, or where such recommendation is not made within two months, then on its own initiative, nominate a person to fill the vacancy" by s. 5 of the Indian Tea Control (Amendment) Act, 1943 (12 of 1943).

<sup>2</sup>Ins. by s. 6, *ibid.*

*(Chapter I.—The Indian Tea Licensing Committee.)*

(g) any other matter in respect of which by-laws may be made under this Act or the rules made thereunder.

(2) All by-laws made under this section shall be subject to the previous sanction of the Central Government.

7. (1) Save in respect of proceedings and orders under sections 28, 29 and 30, all acts of the Committee shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any such act.

Central Government's power of control.

(2) Without prejudice to the generality of the foregoing provision, any person aggrieved by any order of the Committee under section 14 may appeal to either the Central Government or the High Court of the Province within which the tea estate is situated within sixty days from the date of such order:

Provided that an appeal preferred to the Central Government or the High Court shall bar an appeal against the same order to the other.

(3) The records of the Committee shall be open to inspection at all reasonable times by any officer authorised in this behalf by the Central Government.

(4) Subject to rules framed under the Act every owner of a tea estate to whom a quota is allotted shall be entitled to inspect the records of the Committee and on payment of the prescribed fee shall also be entitled to obtain copies of any proceedings or orders of the Committee.

8. (1) The Committee shall publish an annual report and shall keep accounts of all fees received by it under this Act and of the manner in which they are expended and shall also publish a summary of the accounts along with the annual report

Keeping and auditing of accounts.

(2) Such accounts shall be examined and audited annually by auditors appointed in this behalf by the Central Government, and such auditors shall have power to disallow any item which has been, in their opinion expended otherwise than in pursuance of the purposes of this Act.

(3) If any item is disallowed under sub-section (2), an appeal shall lie to the Central Government whose decision shall be final.

9. (1) The Central Government may, by notification in the official Gazette, declare the Committee to be dissolved, and on the date of the publication of any such notification the Committee shall stand dissolved and this Act shall be deemed to be repealed.

Dissolution of the Committee.

(2) When the Committee is dissolved either under this section or by the expiry of this Act, the unexpended balance of fees received by the Committee under this Act shall lapse to the Central Government.

(Chapter I.—The Indian Tea Licensing Committee.)

Chapter II.—Control over the Export of Tea.)

**Power to make rules.** 10. The Central Government may, by notification in the official Gazette, make rules—

- (a) providing for the conduct of the elections referred to in clauses (b) and (c) of sub-section (1) of section 3;
- (b) providing for the establishment and maintenance of offices by the Committee;
- (c) providing for the conduct of business by the Committee and determining the number of members which shall form a quorum at meetings;
- (d) providing for the maintenance by the Committee of a record of all business transacted and for submission of copies thereof to the Central Government;
- (e) regulating the preparation of annual estimates of receipts and expenditure;
- (f) regulating the keeping of accounts of receipts and expenditure;
- (g) determining the custody in which the current account of the Committee shall be kept, and the bank or banks at which surplus money at the credit of the Committee may be deposited at interest;
- (h) regulating <sup>1</sup>\* \* \* \* the circumstances in which and the authority by which members <sup>2</sup>[of the Committee] may be removed; and
- (i) generally, to carry out the provisions of this Chapter.

## CHAPTER II.

### CONTROL OVER THE EXPORT OF TEA.

**Limitation of application of Chapter.**

11. Nothing in this Chapter shall apply to tea—

- (a) proved to the satisfaction of the Customs-collector to have been imported into <sup>3</sup>[the Provinces] from any port outside India, or
- (b) shipped as stores on board any vessel <sup>4</sup>[or aircraft] in such quantity as the Customs-collector considers reasonable having regard to the number of the crew and passengers, and the length of the voyage on which the vessel <sup>4</sup>[or aircraft] is about to depart, or
- (c) exported by post in packages not exceeding one pound *avoirdupois* in weight <sup>4</sup>[, or]

<sup>1</sup> The words "the term of office of members of the Committee and" were rep by s. 7 of the Indian Tea Control (Amendment) Act, 1948 (12 of 1948).

<sup>2</sup> Ins., *ibid.*

<sup>3</sup> Subs. by the A. O. 1948 for "British India".

<sup>4</sup> Ins. by s. 8 of the Indian Tea Control (Amendment) Act, 1948 (12 of 1948).

*(Chapter II.—Control over the Export of Tea.)*

<sup>1</sup>[(d) exported with the previous sanction of the Central Government, within the limits prescribed in this behalf, by a Red Cross Society or by any organisation for providing amenities for troops overseas.]

<sup>2</sup>[or

(e) taken as part of the personal baggage of a passenger.]

12. (1) No tea shall be exported unless covered by a licence issued by or on behalf of the Committee.

Control of  
export of  
tea and tea  
seed.

(2) No tea <sup>3</sup>[or tea seed] shall be taken by land, sea or air out of <sup>4</sup>[any Province] to any of the French or Portuguese Settlements bounded by India unless covered by a permit issued by or on behalf of the Committee.

(3) No tea seed shall be exported unless covered by a permit issued by or on behalf of the Central Government.

13. The Indian export allotment for each financial year during the operation of this Act shall be declared by the Central Government by notification in the official Gazette after consulting the Committee and paying due regard to all interests concerned and shall be expressed as a number of pounds *avoirdupois* equivalent to a stated percentage of the standard export figure.

Indian ex-  
port allot-  
ment.

<sup>5</sup>[Provided that the Central Government may, by subsequent notification issued at any time during the financial year, alter the Indian export allotment as so declared, and thereupon the Indian export allotment as so altered shall be the Indian export allotment for that year.]

14. (1) Any tea estate or any sub-division of a tea estate to which an export quota was allotted <sup>7</sup>[before the 1st day of April, 1948] and any tea estate which the Central Government may <sup>8</sup>[on application made within six months from the said date] authorise to apply for the allotment of an export quota under this Act, shall on application made <sup>9</sup>[within the prescribed time and accompanied by the prescribed particulars] to the Committee for the allotment to the estate of an export quota have the right, subject to the provisions of this Act, to receive an export quota.

Export  
quotas and  
crop basis.

(2) The export quota of a tea estate, that is, the total quantity of tea which may be exported by the owner of the tea estate during the financial year, shall be an amount bearing to the crop basis of the estate

<sup>1</sup> Subs. by s. 2 of the Indian Tea Control (Second Amendment) Act, 1948 (29 of 1948) for clause (d) as subs. by s. 8 of Act 12 of 1943 for the original clause.

<sup>2</sup> Ins. by s. 4 of the Indian Tea Control (Amendment) Act, 1948 (19 of 1948).

<sup>3</sup> Ins. by s. 9 of the Indian Tea Control (Amendment) Act, 1948 (12 of 1948).

<sup>4</sup> Subs. by the A.O. 1948, for "British India."

<sup>5</sup> Sub-section (4) which had been ins. by s. 9 of Act 12 of 1943 was rep. by s. 5 of Act 19 of 1948.

<sup>6</sup> Ins. by s. 2 of the Indian Tea Control (Amendment) Ordinance, 1940 (7 of 1940).

<sup>7</sup> Subs. for "under the Indian Tea Control Act, 1938" by s. 6 of Act 19 of 1948.

<sup>8</sup> Subs. for "within one year from the commencement of this Act" by s. 6 of Act 19 of 1948.

<sup>9</sup> Ins. by s. 10 of the Indian Tea Control (Amendment) Act, 1948 (12 of 1948)

## (Chapter II.—Control over the Export of Tea.)

as determined by the Committee in accordance with the principles set forth in the Schedule <sup>1</sup>[or as revised by the Central Government under section 14A] the same proportion as the Indian export allotment for the financial year in question bears to the total of the crop basis of all tea estates in India for that year <sup>2</sup>[and, when such allotment is altered under the proviso to section 13 during the financial year, shall be deemed to be altered accordingly :

Provided that when the export quota of a tea estate has been reduced in consequence of an alteration or alterations during the financial year of the Indian export allotment, any tea exported by the owner of the estate in accordance with the export quota as subsisting for the time being which is in excess of the amount permitted to be exported in accordance with that export quota as finally revised for the year shall be excluded from the computation of the total quantity of tea which may be exported by that owner during the financial year, and shall be a permissible export notwithstanding that the Indian export allotment for the financial year may be thereby exceeded];

(3) The crop basis of a tea estate may be re-determined by the Committee if—

(a) application is made by the owner of the estate in this behalf before the 30th day of September, <sup>3</sup>[1943], and

(b) the Committee is satisfied that there exist grounds of special hardship arising out of circumstances not under the control of the owner or of any previous owner of the estate and relating to conditions existing prior to the 1st day of April, 1938.

(4) The total of all export quotas allotted to tea estates <sup>4</sup>[at any time during any financial year] shall not exceed the Indian export allotment <sup>5</sup>[for the time being] for that year.

Power of  
Central  
Govern-  
ment to  
revise crop  
basis.

<sup>6</sup>[14A. The crop basis of a tea estate as determined or re-determined by the Committee may be revised by the Central Government if the Central Government is satisfied that the Committee in determining or re-determining it acted upon information which was either incorrect or deceptive.]

Right to  
export  
licences.

15. (1) The owner of a tea estate to which an export quota has been allotted for any financial year shall have a right to obtain at any time during that year export licences to cover the export of tea up to the amount of the unexhausted balance of the quota, that is, up to the amount of the quota less the amount for which export licences have already been issued against it.

<sup>1</sup> Ins. by s. 10 of the Indian Tea Control (Amendment) Act, 1943 (12 of 1943).

<sup>2</sup> Ins. by s. 3 of the Indian Tea Control (Amendment) ordinance, 1940 (7 of 1940).

<sup>3</sup> Subs. for "1938" by s. 10 of Act 12 of 1943.

<sup>4</sup> Subs. for "for any financial year" by s. 3 of the Indian Tea Control (Amendment) Ordinance, 1940 (7 of 1940).

<sup>5</sup> Ins., *ibid.*

<sup>6</sup> Ins. by s. 11 of Act 12 of 1943.

## (Chapter II.—Control over the Export of Tea.)

<sup>1</sup>[Provided that for the purpose of restricting in any year the amount of tea exported from <sup>2</sup>[the Provinces] the Central Government may direct that the quota shall, for the purposes of this sub-section, be deemed to be reduced by such proportion as is necessary to effect the desired restriction.]

(2) The right of the owner of a tea estate under this section may be transferred in whole or in part, and, subject to proof of the transfer to the satisfaction of the Committee and to the completion of the prescribed documents to enable the Committee to give effect to the transfer, the transferee shall have a right to obtain export licences up to the amount covered by the transfer or up to the amount of the unexhausted balance of the quota, whichever may be less:

<sup>3</sup>[Provided that if in consequence of an alteration under the proviso to section 13 of the Indian export allotment for the financial year the export quota allotted to the owner of the tea estate is reduced, any transfer of a right to obtain export licences already made by such owner shall be void in so far as it relates to the future export of tea in excess of his export quota as so reduced, and the transferee shall be entitled to obtain from the transferor a refund of the amount paid in respect of such excess.]

(3) Subject to the conditions specified in sub-section (2), any transferee referred to in that sub-section may again transfer the whole or any part of his rights to the owner of a tea estate, but not to any other person.

(4) Nothing in sub-section (3) shall operate to restrict the issue of licences for the export of tea expressed to be sold with export rights.

16. (1) The owner of any tea estate to which an export quota has been allotted or any person to whom he has transferred his rights may at any time before the 21st day of March of the financial year to which the quota relates apply in writing to the Committee for an export licence covering a stated quantity of tea. Grant of export licences.

(2) If the unexhausted balance of the quota <sup>4</sup>[or of the quota as deemed to be reduced in accordance with any direction made under the proviso to sub-section (1) of section 15], is sufficient to cover the stated quantity, the Committee shall on receipt of the requisite fee issue an export licence covering the stated quantity:

<sup>4</sup>[Provided that, if the Central Government has at any time decided that it is desirable to restrict exports of tea from <sup>2</sup>[the Provinces], the Committee may, with the general or special previous sanction of the Central Government, refuse to issue export licences.]

(3) Every licence shall be in duplicate in the prescribed form, shall bear the date of its issue and shall be valid up to the end of the financial year in which it is issued:

<sup>1</sup> Ins. by s. 12, of the Indian Tea Control (Amendment) Act, 1948 (12 of 1948).

<sup>2</sup> Subs. by the A. O. 1948 for "British India".

<sup>3</sup> Ins. by s. 4 of the Indian Tea Control (Amendment) Ordinance, 1940 (7 of 1940).

<sup>4</sup> Ins. by s. 13 of Act 12 of 1948.

*(Chapter II.—Control over the Export of Tea.)*

Provided that save as provided in section 17 the Committee shall not date or issue any export licence after the end of the financial year in which the application for it was made.

special  
export  
licences,

<sup>1</sup>17. (1) Where the tea covered by an export licence issued under the Indian Tea Control Act, 1933, has not been exported before the 31st day of March, 1938, the person to whom the licence was granted may, before the 14th day of April, 1938, forward the licence to the Committee and submit therewith an application for a special export licence covering the same quantity of tea, and the Committee shall, on receipt of the requisite fee, if any, issue a special export licence accordingly. **XXIV of 1933.**

(2) Where tea, in respect of which an export licence has been or could have been granted under this Act, <sup>2</sup>[or in respect of which an export licence would, but for the operation of a direction made under the proviso to sub-section (1) of section 15, have been obtainable] has not been exported before the end of the financial year in which the licence was or could have been issued, the person to whom the licence was or could have been granted may, before the 14th day of April of the following financial year, forward an application to the Committee for a special export licence covering the same quantity of tea, and the Committee shall, on receipt of the requisite fee, if any, issue a special export licence accordingly.

<sup>3</sup>(2A) Where, in pursuance of sub-section (1) or sub-section (2) of section 7, the owner of a tea estate receives a right to obtain export licences for a further quantity of tea, <sup>4</sup>[he may apply to the Committee, for a special export licence covering that further quantity, and the Committee, unless prevented by the operation of any other provision of this Act, shall,] on receipt of the requisite fee, if any, issue a special licence accordingly.

(2B) A person, to whom a special export licence has been issued under sub-section (2) or sub-section (2A), may transfer the special export licence with all the rights conferred thereby <sup>5</sup>\* \* \* \* to a person or persons nominated by him, but a licence once so transferred shall not be further transferable.]

(3) A special export licence shall be in duplicate in the prescribed form, shall bear the date of its issue, and shall be valid <sup>6</sup>\* \* \* up to the 31st day of <sup>7</sup>[<sup>8</sup>May] of the financial year] in which it was issued.

\* \* \* \* \*

<sup>1</sup> This section was supplemented by Ordinance 8 of 1947 (temporarily.)

<sup>2</sup> Ins. by s. 14 of the Indian Tea Control (Amendment) Act, 1943 (12 of 1943).

<sup>3</sup> Subs., *ibid*, for sub-section (2A) ins. by s. 2 of the Indian Tea Control (Amendment) Ordinance, 1942 (47 of 1942).

<sup>4</sup> Subs. for "he may, within one month from the date of the order whereby he receives such rights, apply to the Committee for a special export licence covering that further quantity and the Committee shall," by s. 2 of the Indian Tea Control (Amendment) Act, 1946 (20 of 1946).

<sup>5</sup> The words "within a period of six months from the date on which it was granted" were rep., *ibid*.

<sup>6</sup> The words "in the case of a special export licence issued in the year 1938 up to the 30th day of June of that year and in the case of a special export licence issued in any subsequent year" were rep. by s. 14 of Act 12 of 1948.

<sup>7</sup> Subs. for "May of the year", *ibid*.

<sup>8</sup> Subs. for "March" by s. 2 of Act 20 of 1946.

<sup>9</sup> The proviso ins. by Ordinance 47 of 1942 was rep. by s. 14 of Act 12 of 1948.

*(Chapter II.—Control over the Export of Tea.)*

<sup>1</sup>[Provided that a special export licence issued before the 1st day of April, 1947 shall be valid up to the 31st day of March, 1947.]

(1) The quantity of tea covered by a special export licence shall be accounted for against the export quota of the year in which the original licence was or could have been issued under this Act \* \* \*.

<sup>3</sup>[(5) Notwithstanding anything contained in the foregoing sub-sections, the Committee may <sup>4</sup>[with the general or special previous sanction of the Central Government refuse to issue a special export licence or] postpone for so long as the Central Government may require the issue of any special export licence.]

18. (1) The Committee shall maintain an account of every export quota showing, in addition to such other particulars as the Committee may think fit, the licences issued against it and the unexhausted balance. **Committee to maintain accounts of quotas.**

(2) Any owner of a tea estate shall be entitled, on payment of the requisite fee, to a copy of the account relating to his quota, certified in the manner laid down in the by-laws.

19. (1) No consignment of tea or tea seed shall be shipped or waterborne to be shipped for export or shall be exported until the owner has delivered to the Customs-collector a valid export licence or special export licence in duplicate or a permit issued by or on behalf of the Central Government covering the quantity to be shipped. **Tea for export to be covered by licence or permit.**

(2) No consignment of tea or tea seed shall be shipped or waterborne to be shipped for carriage <sup>5</sup>[or shall be taken by land] to any of the French or Portuguese Settlements bounded by India until the owner has delivered to the Customs-collector a permit issued by or on behalf of the Committee or issued by or on behalf of the Central Government, as the case may be, covering the quantity to be shipped.

XIX of  
1924.

(3) No permit for the passage of any tea <sup>5</sup>[or tea seed] by land into any of the French or Portuguese Settlements bounded by India shall be granted under sub-section (1) of section 5 of the Land Customs Act, 1924, unless the application for such permit is accompanied by a permit granted in this behalf by the Committee covering the quantity to be passed.

20. (1) The Committee may serve by post a notice upon the owner of any tea estate or upon his manager, requiring him to furnish, within such period not being less than thirty days as it may specify in the notice, such **Power of Committee to call for returns.**

<sup>1</sup> Ins. by s. 2 of the Indian Tea Control (Amendment) Act, 1946 (29 of 1946).

<sup>2</sup> The words "or under the Indian Tea Control Act, 1938, as the case may be" were rep. by s. 14 of the Indian Tea Control (Amendment) Act, 1943 (12 of 1943).

<sup>3</sup> Ins., *ibid.*

<sup>4</sup> Ins. by s. 3 of the Indian Tea Control (Second Amendment) Act, 1943 (29 of 1943).

<sup>5</sup> Ins. by s. 15 of Act 12 of 1913.



*(Chapter II.—Control over the export of Tea)*

returns relating to the production, sale and export of tea produced on the estate, or to any other matter as it may deem necessary <sup>1\* \* \*</sup>

(2) Where any return required under sub-section (1) in respect of any tea estate is not furnished within the period specified in the notice, the Committee may refuse to allot a quota to that estate under section 14, or, where a quota has already been allotted, may cancel the unexhausted balance of that quota and refuse to issue any further export licences under section 16 against that quota or to recognise or give effect to any transfer under section 15.

**Power of Committee to require evidence of ownership.**

21. (1) The Committee may serve by post a notice upon any person claiming to be the owner of any tea estate or upon his agent or manager or upon any person claiming to be the agent or the manager of the owner of any tea estate requiring him to furnish, within such period as may be specified in the notice or within such extended period as the Committee may allow, such documentary or other evidence as may be required to prove to the satisfaction of the Committee that such person is the owner of such tea estate or is the agent or manager of the owner of a tea estate, as the case may be.

(2) Where any person fails to comply with the requirements of a notice served on him under sub-section (1) or where the evidence furnished by such person is insufficient to prove to the satisfaction of the Committee that such person is the owner of the tea estate of which he claims to be the owner or is the agent or manager of the owner of a tea estate, as the case may be, the Committee may refuse to issue to such person or to his agent or manager any export licences against the quota allotted to such tea estate.

**Fees.**

22. (1) The Committee may charge and collect the following fees, namely:—

- (a) a licence fee for every export licence or special export licence or permit issued by it, at such rates, not exceeding one rupee per thousand pounds of tea or part thereof covered by the licence or permit, as the Central Government may, on the recommendation of the Committee by notification in the official Gazette, fix in this behalf;
- (b) a fee, not to exceed eight annas per acre of the area concerned, on any application under sub-section (3) of section 14 for re-determination of crop basis; and
- (c) copying fees for certified copies of accounts of quotas, at the rate of one rupee per copy;

Provided that the owner of any tea estate to which a quota has been allotted under section 14 may make, or the Committee may require him to make, a consolidated payment of export licence fees at the rate fixed under clause (a) to cover the whole of the quota.

<sup>1</sup>The words "to enable it to discharge its duties under this Chapter" rep. by s. 16 of the Indian Tea Control (Amendment) Act 1943 (12 of 1943).

*(Chapter II.—Control over the Export of Tea.)*

(2) The Committee shall apply the fees collected by it under this section to the meeting of expenses incurred by it in pursuance of the purposes of this Act, and, with the previous sanction of the Central Government, to the payment of a contribution towards the maintenance of any international committee established in furtherance of the said purposes in or by tea producing countries generally.

23. The Central Government may, by notification in the official Gazette, make rules— Power to make rules,

- (a) prescribing all matters requiring to be prescribed for the purposes of the Schedule;
- (b) regulating the grant of permits for the carriage of tea <sup>1</sup>[or tea seed] to the French and Portuguese Settlements;
- <sup>1</sup>[(ba) prescribing limits for the purposes of clause (d) of section 11;
- (bb) prescribing the time and the particulars referred to in sub-section (1) of section 14];
- (c) prescribing the documents referred to in sub-section (2) of section 15;
- (d) prescribing the form of export licences and special export licences and permits; and
- (e) generally to carry out the purposes of this Chapter.

24 No quota fixed, no order granting or refusing to grant any licence or permit, and no other act done by the Committee under this Chapter shall be called in question in any Court except the High Court under the provisions of sub-section (2) of section 7 of this Act. Bar of jurisdiction.

25. Where legislation enacted in any <sup>2</sup>[Acceding State] has made provision in pursuance of the agreement implemented by and in consonance with the provisions contained in this Act for the control of the export of tea from and for the control of the extension of the cultivation of tea in the State, the Committee shall issue export licences, special export licences and permits for the export or carriage out of <sup>3</sup>[the Provinces] of tea produced in any such State in the same manner and subject to the same incidents as such licences or permits are issued in respect of tea produced in <sup>3</sup>[the Provinces]. Export of tea produced in Acceding States.

<sup>4</sup>[25A. If, in pursuance of any scheme for the control of import of Indian tea into the United Kingdom or any other country, Central Government considers it necessary or expedient so to do, it may by order direct the Committee to apportion the requirement of the United Kingdom or such other country among the tea estates in accordance with such principles and in such manner as may be laid down in the order and to grant such export licences or special export licences as may be necessary for giving effect to the arrangements made under such scheme, and the Committee shall comply with any such order.] Power of Central Government to make orders.

<sup>1</sup> Ins. by s. 17 of the Indian Tea Control (Amendment) Act, 1948 (12 of 1948).

<sup>2</sup> Subs. by the A.O. 1948 for "Indian State."

<sup>3</sup> Subs. by the A. O. 1948 for "British India,"

<sup>4</sup> Ins by s. 18 of Act 12 of 1948.

## (Chapter III.—Control over the Extension of Tea Cultivation.)

## CHAPTER III.

## CONTROL OVER THE EXTENSION OF TEA CULTIVATION.

Method of  
control of  
extension of  
tea  
cultivation.

26. So long as this Act remains in force, no one shall plant tea in any land which was not planted with tea on the 31st day of March, <sup>1</sup>[1948], save in pursuance of a written permission granted by or on behalf of the Committee:

<sup>2</sup>[Provided that this section shall apply to the replacing of tea areas by planting new areas, but nothing in this section shall prohibit—

(a) the infilling or supplying of vacancies on land planted with tea on or before the 31st day of March, 1948 or the replanting of tea upon—

(i) land planted with tea on or before the 31st day of March, 1948 from which the original bushes have been uprooted, or

(ii) land planted with tea on or before the 31st day of March, 1946 from which the original bushes have been uprooted; or

(b) the replacing of tea areas which are worn out on or before the 31st day of March 1948, by planting tea on area not planted with tea to the same extent, but not exceeding five per cent. in each year of the total permissible acreage of the tea estate as on or before the 31st day of March 1948, subject to such replacement being accompanied by simultaneous uprooting of the tea bushes in the area so replaced.]

Limitations  
to the  
extension  
of tea  
cultivation.

27. (1) Subject to the provisions of section 29 and section 30, the total area of land in <sup>3</sup>[the Provinces] in respect of which the permissions referred to in section 26 may be granted, shall not exceed <sup>4</sup>[such area as will bring the total area of the land planted with tea in <sup>5</sup>[the Provinces] <sup>6</sup>[upto four per cent] over the total area of the land which would have been planted with tea in <sup>3</sup>[the Provinces] on the 31st day of March, <sup>6</sup>[1948] <sup>7</sup>x      x      x      x      x].

(2) Subject to the provisions of section 29 and section 30, the total area of land in any Province, in respect of which such permissions may be granted, shall be determined by the Committee and shall be as near as may be <sup>8</sup>[such area as will bring the total area of the land planted

<sup>1</sup> Subs. by s. 7 of the Indian Tea Control (Amendment) Act, 1948 (19 of 1948) for "1948" which had been subs. by s. 19 of Act 12 of 1948 for the original figure "1938".

<sup>2</sup> Subs. by s. 7 of the Indian Tea Control (Amendment) Act, 1948 (19 of 1948) for the original proviso as amended by the Indian Tea Control (Amendment) Act, 1948 (12 of 1948), s. 19.

<sup>3</sup> Subs. by the A. O. 1948 for "British India".

<sup>4</sup> Subs. for "one half of one per cent. of the total area of the land planted with tea in British India on the 31st day of March, 1938" by s. 20 of Act 19 of 1948.

<sup>5</sup> Subs. for "up to one half of one per cent." by s. 8 of Act 19 of 1948.

<sup>6</sup> Subs. for "1948", *ibid*.

<sup>7</sup> The words "had the extensions of plantation made in the two periods of five years subsequent to the 31st day of March, 1933, each increased the area in British India planted with tea at the beginning of each such period by one-half of one per cent." were rep., *ibid*.

<sup>8</sup> Subs. for "one half of one per cent. of the total area in the Province which was planted with tea on the 31st day of March, 1938" by s. 20 of Act 12 of 1948,

## (Chapter III.—Control over the Extension of Tea Cultivation)

with tea in the Province <sup>1</sup>[upto four per cent] over the total area of the land which would have been planted with tea in the Province on the 31st day of March, <sup>2</sup>[1948]<sup>3</sup> \* \* \*].

<sup>4</sup>[Provided that the Committee may vary the total area so determined for any Province in order to increase or diminish for another Province the area in respect of which such permissions may be granted by an amount corresponding to the extent to which the area in the first mentioned Province has been diminished or increased.].

(3) The Committee shall publish the total areas so determined for the various Provinces by notification in the official Gazette of the Central Government as soon as may be <sup>5</sup>[after the commencement of the Indian Tea Control (Amendment) Act <sup>2</sup>[1948] ] <sup>6</sup>[and shall in like manner publish any subsequent variation of such total areas.]

6 \*

\*

\*

\*

\*

28. (1) Applications for permission to plant tea on any land not planted with tea on the 31st day of March, <sup>7</sup>[1948], shall be made to the Committee <sup>8</sup>[not later than six months from the commencement of the Indian Tea Control (Amendment) Act, <sup>9</sup>[1948] ] and shall contain a clear statement of all special circumstances justifying the application.

Grant of  
permission to  
plant tea.

<sup>10</sup>[(1A) The Committee may require an applicant to supply such information as it thinks necessary to enable the Committee to deal with the application.]

(2) Subject to the limits laid down in section 27 <sup>10</sup>[and to any rules made in this behalf by the Committee], the Committee may grant or refuse the permission applied for or may grant it in part only, or may call for further information from the applicant.

<sup>10</sup>[Provided that permission shall not be granted in the case of any tea estate owned by a limited liability company if the area planted with tea in the estate exceeds three hundred acres, or in the case of any tea estate owned by an individual proprietor or proprietors if the area planted with tea in the estate exceeds one hundred and fifty acres:

Provided further that the Committee may, despite the limits laid down in section 27, grant such permission to the Tocklai and Nellakotta experimental stations.]

<sup>1</sup> Subs. for "up to one half of one per cent." by s. 8 the Indian Tea Control (Amendment) Act, 1948 (19 of 1948).

<sup>2</sup> Subs. for "1948", *ibid*.

<sup>3</sup> The words "had the extensions of plantation made in the two periods of five years subsequent to the 31st day of March, 1933, each increase the area in the Province planted with tea at the beginning of each such period by one half of one per cent" were rep. by s. 8 of Act 19 of 1948.

<sup>4</sup> Ins. by s. 20 of the Indian Tea Control (Amendment) Act, 1948 (12 of 1948).

<sup>5</sup> Subs. for "after the commencement of this Act," *ibid*.

<sup>6</sup> Sub-section (4) as amended by Act 34 of 1939 was rep. by s. 20 *ibid*.

<sup>7</sup> Subs. by s. 9 of the Indian Tea Control (Amendment) Act, 1948 (19 of 1948) for "1948" which had been subs. by s. 21 of Act 12 of 1943 (12 of 1943) for the original figure "1938".

<sup>8</sup> Subs. for "not later than six months from the commencement of this Act" by s. 21 of Act 12 of 1943.

<sup>9</sup> Subs. for "1948" by s. 9 of Act 19 of 1948.

<sup>10</sup> Ins. by s. 21 of Act 12 of 1943.

*(Chapter III.—Control over the Extension of Tea Cultivation.)*

(3) No order by the Committee under sub-section (2) shall be called in question by any Court.

Grant of  
permission  
to plant tea  
in special  
circum-  
stances

29. (1) <sup>1</sup>[Where any land which was at the 31st day of March, 1933, planted with tea (including land planted with tea at the 31st day of March, 1931, from which the original bushes had been uprooted and which had not been replanted with tea at the said 31st day of March, 1933), or where any land planted with tea after the 31st day of March, 1933—]

(a) has since become wholly incapable of carrying tea through <sup>2</sup>[circumstances due to existing war conditions or through] subsidence, flood, erosion, earthquake or other irresistible superhuman cause, or

(b) has since been compulsorily acquired under the provisions of the Land Acquisition Act, 1894, or of any other law for the <sup>1</sup>of 1894, time being in force and no longer carries tea,

<sup>3</sup> [or

(c) has since been resumed by the lessor under the terms of any lease and no longer carries tea,]

the owner of the tea estate in which such land was situated may apply to the Committee for permission to plant tea on land not planted with tea.

<sup>2</sup>[*Explanation.*—Land taken for purposes connected with the prosecution of war on which tea bushes have been allowed to remain for protective purposes though no longer cultivated shall be deemed for the purposes of this sub-section to be incapable of carrying or no longer to carry tea.]

(2) Upon such application being made and upon proof to the satisfaction of the Committee that the applicant is entitled to the benefit of sub-section (1), the Committee may grant permission to plant tea on land not planted with tea:

Provided that the area of land, in respect of which such permission is granted, shall be within <sup>4</sup>[the same or an adjacent district and shall belong to the same or an adjacent tea estate] and shall not exceed in extent the area of the land incapable of carrying tea or compulsorily acquired, as the case may be.

(3) All areas of land in respect of which permission to plant tea is granted under this section shall be excluded when computing for the purposes of section 27 the total area of land in respect of which the permissions referred to in section 26 may be granted.

<sup>1</sup> Subs. by s. 4 of the Indian Tea Control (Second Amendment) Act, 1943 (29 of 1943) for "where any land which was on the 31st day of March, 1943, planted with tea", the figure 1943 being subs. for the original figure 1933 by s. 22 of Act 12 of 1943.

<sup>2</sup> Ins. by s. 22 of the Indian Tea Control (Amendment) Act, 1943 (12 of 1943).

<sup>3</sup> Ins. by s. 10 of the Indian Tea Control (Amendment) Act, 1943 (19 of 1943).

<sup>4</sup> Subs. for "the area of the same tea estate" by s. 22 of Act 12 of 1943.

*(Chapter III.—Control over the Extension of tea Cultivation.)*

<sup>1</sup>[(4) If any land falling within the *Explanation* to sub-section (1) is subsequently restored to the tea estate from which it was subtracted, the owner of the estate shall either uproot the tea planted thereon, or uproot any tea planted by him in pursuance of a permission granted under sub-section (2).]

30. (1) Subject to the provisions of sub-section (4), the owner of a tea estate may establish nurseries on land not previously planted with tea for the growing of plants intended for in-filling or supplying vacancies or for replanting land planted with tea within the area of the estate or for any other purpose approved by the Committee. Tea nurseries.

(2) All areas of land utilised for nurseries in accordance with this section shall be excluded when computing for the purposes of section 27 the total area of land in respect of which the permissions referred to in section 26 may be granted.

(3) The Committee may at any time serve by post a notice upon the owner of any tea estate or upon his manager requiring him to furnish within such period not being less than thirty days as may be specified in the notice such returns relating to the area of the land utilised for nurseries as it may deem necessary.

(4) If any return required under sub-section (3) is not furnished to the Committee within the period specified in the notice or if in the opinion of the Committee the total area of the land utilised for nurseries is excessive, the Committee may make such restrictive or other order as it deems necessary and in particular may order the uprooting of any bushes planted on any such land.

31. (1) Any applicant aggrieved by an order of the Committee under section 28, section 29 or section 30 may appeal to the Provincial Government within sixty days from the date thereof and the Provincial Government may cancel, modify or suspend any such order. Appeal to Provincial Government

(2) The records of the Committee relating to proceedings under this Chapter shall be open to inspection at all reasonable times by any officer authorised in this behalf by the Provincial Government.

32. (1) The Committee may at any time serve by post a notice upon the owner of any tea estate or upon his manager requiring him to furnish within such period not being less than thirty days as may be specified in the notice such returns relating to the cultivation of tea on the estate as it may deem necessary. Power of the Committee to call for returns and to inspect.

(2) Any member of the Committee and any officer of the Committee or person authorised by it in this behalf may at any reasonable time enter

<sup>1</sup> Ins. by s. 22 of the Indian Tea Control (Amendment) Act, 1948 (12 of 1948).

<sup>2</sup> The Proviso as amended by s. 23 of Act 12 of 1948 had been rep. by s. 11 of the Indian Tea Control (Amendment) Act, 1948 (19 of 1948).

*(Chapter III.—Control over the Extension of Tea Cultivation.*

*Chapter IV.—Penalties and Procedure.)*

upon and inspect the lands of any tea estate and may require the owner of the estate to produce for inspection any records of the estate in his control or custody relating to the cultivation of tea on the estate.

(3) Where any return required under sub-section (1) in respect of any tea estate is not furnished to the Committee within the period specified in the notice, the Committee may refuse to grant any permission under section 28 to plant tea on that estate.

#### CHAPTER IV.

##### PENALTIES AND PROCEDURE.

Penalty for  
illicit export.

33. A breach of the provisions of 1\* \* \* sub-section (1) or sub-section (2) of section 19 shall be punishable as if it were an offence under Item No. 8 of section 167 of the Sea Customs Act, 1878, and the provisions of section 168 and of Chapter XVII of that Act shall apply accordingly. VIII of 1878

Penalty for  
making false  
return.

34. Any owner of a tea estate, or his agent or manager who has furnished any return under sub-section (1) of section 20, or under sub-section (3) of section 30, or under sub-section (1) of section 32, containing any particular which is false and which he knew to be false or did not believe to be true, shall be punishable with fine which may extend to one thousand rupees.

Penalty for  
obstructing  
inspection of  
tea estate.

35. Whoever obstructs any member or officer of the Committee or any person authorised by the Committee, while such member, officer or person is entering upon or inspecting the lands of any tea estate under sub-section (2) of section 32, and whoever, having control over or custody of any records of a tea estate relating to the cultivation of tea on that estate, refuses or fails to produce such records when required by a member or officer of the Committee or by a person authorised by the Committee under that sub-section, shall be punishable with fine which may extend to one thousand rupees.

Penalty  
for illicit  
cultivation.

36. (1) Whoever knowingly plants tea or causes tea to be planted in any land in contravention of section 26 shall be punishable with fine which may extend to one thousand rupees for the first offence, and with fine which may extend to five thousand rupees for any subsequent offence.

(2) Whoever uses any land in contravention of any order made by the Committee under section 30, or fails to comply with any order made by the Committee under sub-section (4) of section 30, shall be punishable with fine which may extend to one thousand rupees.

<sup>1</sup> The words "sub-section (4) of section 12 or" which were ins. by s. 5 of the Indian Tea Control (Second Amendment) Act, 1948 (29 of 1948) had been rep. by s. 12 of the Indian Tea Control (Amendment) Act, 1948 (19 of 1948).

*(Chapter IV.—Penalties and Procedure. Chapter V.—Savings.)*

37. Where any person has been convicted of any offence under section 36, the convicting Court may direct that the tea in respect of which the offence was committed shall be removed from the land within a specified time, and, in the event of the order not being duly complied with, may cause the tea to be removed and may recover the cost from the person convicted as if it were arrears of land revenue due on the tea estate on which the offence was committed.

Removal of  
tea planted  
without  
permission.

38. (1) No Magistrate other than a Magistrate of the first class shall take cognisance of an offence under section 34, section 35 or section 36, and such Magistrate may take cognisance of an offence only upon complaint made by a person authorised by the Committee and with the previous sanction of the Central Government, where the offence is that of furnishing a false return under sub-section (1) of section 20, and of the Provincial Government in any other case.

Trial of  
offences  
under sec-  
tions 34, 35  
and 36.

(2) The Committee shall be responsible for the conduct of all prosecutions of offences under section 34, section 35 and section 36.

## CHAPTER V.

## SAVINGS.

39. Notwithstanding the expiry of the Indian Tea Control Act, 1933, and notwithstanding the provisions of sub-section (2) of section 9 of that Act,—

Savings.

(a) the unexpended balance of fees received by the Indian Tea Licensing Committee constituted under that Act shall not lapse to Government but shall be transferred to the Indian Tea Licensing Committee as constituted under section 3 of this Act,

(b) until provision is otherwise made under the corresponding provisions of this Act, all fees fixed, all licences and permits issued and all quotas allotted under the Indian Tea Control Act, 1933, shall, unless inconsistent with the provisions of this Act, be deemed to have been fixed, issued or allotted under this Act; and

(c) any offence punishable under the Indian Tea Control Act, 1933, shall be punishable and may be dealt with as if it were an offence punishable under the corresponding provision of this Act,

and anything done before the 31st day of March, 1938, by the Indian Tea Licensing Committee constituted under the Indian Tea Control Act, 1933, with a view to the allotment to tea estates of export quotas under and in accordance with this Act, shall, so long as it is not inconsistent with any of the provisions of this Act, be as valid as if it had been done after this Act came into force.



## (Chapter VI.—Suspension of operation of Act. The Schedule.)

<sup>1</sup>[CHAPTER VI.]

## SUSPENSION OF OPERATION OF ACT.

Suspension  
of operation  
of Act.

40. (1) If the Central Government is satisfied that an emergency has arisen rendering it necessary for the security of India that certain of the restrictions imposed by this Act should cease to be imposed, <sup>2</sup>[or if it considers it necessary so to do for any other reason.] the Central Government may, by notification in the official Gazette, suspend or relax to a specified extent either indefinitely or for such period as may be specified in the notification the operation of all or any of the provisions of this Act.

(2) Where the operation of certain provisions of this Act has under sub-section (1) been suspended or relaxed indefinitely, such suspension or relaxation may at any time while this Act remains in force be removed by the Central Government by notification in the official Gazette.]

(The Schedule.)

<sup>3</sup>[THE SCHEDULE.]

[See section 14 (2).]

*Principles to be followed in determining the Crop Basis of a Tea Estate.*

1. Where a tea estate has before the 1st day of April, 1943, received an export quota under this Act, the crop basis of the estate for the financial year beginning on that date, or for any subsequent financial year shall be the highest crop basis assigned to the estate under this Act for any of the financial years beginning on the 1st day of April, 1940, 1941 or 1942 (herein referred to as the cardinal crop basis) increased by any admissible allowance of either of the following kinds, namely:—

(a) An allowance for young areas, that is, areas planted with tea on or after the 1st day of January, 1926, determined in the prescribed manner in accordance with the prescribed rules:

<sup>4</sup>[Provided that any allowance made in respect of young areas which has already been included in determining the cardinal crop basis of the estate shall be deducted.]

(b) An allowance for low producing areas determined in the prescribed manner:

<sup>4</sup>[Provided that any allowance made in respect of low producing areas which has already been included in determining the cardinal crop basis of the estate shall be deducted.]

<sup>1</sup> Ins. by s. 24 of the Indian Tea Control (Amendment) Act, 1943 (12 of 1943).

<sup>2</sup> Ins. by s. 13 of the Indian Tea Control (Amendment) Act, 1943 (19 of 1943).

<sup>3</sup> Subs. by s. 25 of Act 12 of 1943, for the original Schedule.

<sup>4</sup> Subs. by s. 2 of the Indian Tea Control (Amendment) Act, 1945 (1 of 1945) for the original proviso.

(The Schedule).

1938:Act X.]

Cutchi Memons.

2. Where the area of a tea estate for which a crop basis has been determined is reduced or increased by the transfer to or acquisition from another tea estate of land planted with tea, the crop basis of the estate shall be reduced or increased by an amount representing as nearly as possible the contribution made by the area transferred or acquired to the crop basis of the estate of which it previously formed a part

3. Where a tea estate for which a crop basis has been determined subsequently becomes two or more separate estates the crop basis of each such separate estate shall be determined so as to represent as nearly as possible the contribution made by the area comprised in it to the total crop basis of the original estate.]

## THE CUTCHI MEMONS ACT, 1938.

<sup>1</sup>Act No. X of 1938.

[8th April, 1938.]

An Act to provide that all Cutchi Memons shall be governed in matters of succession and inheritance by the Muhammadan Law.

**W**HEREAS it is expedient that all Cutchi Memons be governed in matters of succession and inheritance by the Muhammadan Law; It is hereby enacted as follows:—

1. (1) This Act may be called the Cutchi Memons Act, 1938

Short title  
and com-  
mencement.

(2) It shall come into force on the 1st day of November, 1938.

2. Subject to the provisions of section 3, all Cutchi Memons shall, in matters of succession and inheritance, be governed by the Muhammadan Law.

Cutchi  
Memons  
to be  
governed  
in certain  
matters by  
Muhamma-  
dan Law.

3. Nothing in this Act shall affect any right or liability acquired or incurred before its commencement, or any legal proceeding or remedy in respect of any such right or liability; and any such legal proceeding or remedy may be continued or enforced as if this Act had not been passed.

Savings.

4. [Repeal].—Rep. by s. 2 and Sch. 1 of the Repealing and Amending Act, 1942 (25 of 1942).

<sup>1</sup> For the Statement of Objects and reasons, see Gazette of India, 1937, Pt. V, p. 271; for Report of the Select Committee see *ibid.*, 1938, Pt. V, p. 27.

The Act has been applied to the Santhal Parganas district and the Chota Nagpur division subject to certain modifications, by Bihar Government Notification, No. 1089/A-15/40-J. R. dated 31st August, 1940. It has also been applied to all the partially-excluded areas of the Province of Orissa by Orissa Government Notification No. 2266-1110-14/41. Com., dated 23rd July 1942.

## THE CRIMINAL LAW AMENDMENT ACT, 1938

Act No. XX of 1938.

[14th September, 1938.]

## An Act to amend the criminal law.

**W**HEREAS it is expedient to supplement the criminal law by providing for the punishment of certain acts prejudicial to the recruitment of persons to serve in, and to the discipline of, His Majesty's Forces; It is hereby enacted as follows:—

Short title,  
extent and  
commence-  
ment.

1. (1) This Act may be called the Criminal Law Amendment Act, 1938.

(2) It extends to <sup>2</sup>[all the Provinces of India.]

(3) It shall come into force in a Province on such date as the Provincial Government may, by notification in the official Gazette, appoint in this behalf for such province.

Dissuasion  
from enlist-  
ment and  
instigation  
to mutiny or  
insubordina-  
tion alter  
enlistment.

2. Whoever—

(a) with intent to affect adversely the recruitment of persons to serve in the Military, Naval or Air Forces of His Majesty, wilfully dissuades or attempts to dissuade the public or any person from entering any such Forces, or

(b) without dissuading or attempting to dissuade any person from entering such Forces, instigates the public or any person to do, after entering any such Force, any thing which is an offence punishable as mutiny or insubordination under section 27 of the Indian Army Act, 1911, or sections 10 to 12 and 14 to 17 inclusive of the Naval Discipline Act as applied to the Indian Navy by the Indian Navy (Discipline) Act, 1934, or sections 35 to 37 inclusive of the Indian Air Force Act, 1932, as the case may be,

VIII of 1911.

XXXIV of  
1934.

XIV of 1932.

shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

No person shall be prosecuted for any offence under this Act except with the previous sanction of the Provincial Government.

*Exception 1.*—The provisions of clause (a) of this section do not extend to comments on or criticism of the policy of Government in connection with the Military, Naval or Air Forces, made in good faith without any intention of dissuading from enlistment.

*Exception 2.*—The provisions of clause (a) of this section do not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given, or for the benefit of any member of his family or of any of his dependants.

<sup>1</sup> For the Statement of Objects and Reasons, see Gazette of India, 1938 Pt. V, p. 276. This Act has been applied to all the partially excluded areas in the Province of Orissa with effect from 3rd February 1940 by the Orissa Laws Validating Regulation, 1940 (Orissa Regulation I of 1940).

<sup>2</sup> Subs. by the A.O. 1948 for "the whole of British India."

## THE EMPLOYERS' LIABILITY ACT, 1938.

Act No. XXIV of 1938.

[24th September, 1938.]

An Act to declare that certain defences shall not be raised in suits for damages in [the Provinces] in respect of injuries sustained by workmen.

WHEREAS it is expedient to declare that certain defences shall not be raised in suits for damages in [the Provinces] in respect of injuries sustained by workmen; It is hereby enacted as follows:—

1. (1) This Act may be called the Employers' Liability Act, 1938. Short title and extent.
- (2) It extends to [all the Provinces of India].

2 In this Act, unless there is anything repugnant in the subject or context, — Definitions.

- (a) "workman" means any person who has entered into, or works under a contract of, service or apprenticeship with an employer whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, oral or in writing; and
- (b) "employer" includes any body of persons whether incorporated or not, any managing agent of an employer, and the legal representatives of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him

3. Where personal injury is caused to a workman—

- (a) by reason of the omission of the employer to maintain in good and safe condition any way, works, machinery or plant connected with or used in his trade or business, or by reason of any like omission on the part of any person in the service of the employer who has been entrusted by the employer with the duty of seeing that such way, works, machinery or plant are in good and safe condition; or
- (b) by reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him, whilst in the exercise of such superintendence; or
- (c) by reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the

Defence of common employment barred in certain cases.

<sup>1</sup> For the Statement of Objects and Reasons, see Gazette of India 1938, Pt. V, p. 286.

<sup>2</sup> Subs. by the A. O. 1948 for "British India."

<sup>3</sup> Subs. by the A. O. 1948 for "the whole of British India".

time of the injury was bound to conform and did conform, where the injury resulted from his having so conformed; or

- (d) by reason of any act or omission of any person in the service of the employer done or made in obedience to any rule or bye-law of the employer (not being a rule or bye-law which is required by or under any law for the time being in force to be approved by any authority and which has been so approved) or in obedience to particular instructions given by any person to whom the employer has delegated authority in that behalf or in the normal performance of his duties;

a suit for damages in respect of the injury instituted by the workman or by any person entitled in case of his death shall not fail by reason only of the fact that the workman was at the time of the injury a workman of, or in the service of, or engaged in the work of, the employer

**Risk not to be deemed to have been assumed without full knowledge.**

4. In any such suit for damages, the workman shall not be deemed to have undertaken any risk attaching to the employment unless the employer proves that the risk was fully explained to and understood by the workman and that the workman voluntarily undertook the same

**Saving.**

5. Nothing in this Act shall affect the validity of any decree or order of a civil Court passed before the commencement of this Act in any such suit for damages.

## THE EMPLOYMENT OF CHILDREN ACT, 1938.

<sup>1</sup>Act No. XXVI of 1938.

[1st December, 1938.]

**An Act to regulate the admission of children to certain industrial employments.**

**WHEREAS** it is expedient to regulate the admission of children to certain industrial employments; It is hereby enacted as follows:

**Short title and extent.**

1. (1) This Act may be called the Employment of Children Act, 1938.

(2) It extends to <sup>2</sup>[all the Provinces of India]

<sup>1</sup> For the Statement of Objects and Reasons, see Gazette of India, 1938, Pt. V, p. 284. The Act has been applied to:—

The Darjeeling district with effect from 1st October, 1939, see Notification No. 301 Com., dated 26th September, 1939, Calcutta Gazette, dated 28th September, 1939.

The excluded areas in the province of Orissa, by Orissa Government Notification No. 1444-III-C 14/41-Com, dated 16th April 1941.

<sup>2</sup> Subs. by the A.O. 1948 for "the whole of British India."

## 2. In this Act—

## Definitions

XV of 1908.  
IX of 1890.

<sup>1</sup>[(a)] “competent authority”, in respect of a major port, as defined in the Indian Ports Act, 1908, and in respect of a federal railway, as defined in the Indian Railways Act, 1890, means the Central Government, and in any other case means the Provincial Government.

<sup>1</sup>[(b)] “occupier” of a workshop means the person who has ultimate control over the affairs of the workshop;

(c) “prescribed” means prescribed by rules made under this Act;

(d) “workshop” means any premises (including the precincts thereof) wherein any industrial process is carried on, but does not include any premises to which the provisions of section 50 of the Factories Act, 1934, for the time being apply.]

3. (1) No child who has not completed his fifteenth year shall be employed or permitted to work in any occupation connected with the transport of passengers, goods or mails by railway.

Prohibition of employment of children in certain occupations.

XV of 1908.

(2) No child who has not completed his fifteenth year shall be employed or permitted to work in any occupation involving the handling of goods within the limits of any port to which for the time being any of the provisions of the Indian Ports Act, 1908 are applicable

<sup>2</sup>[(3) No child who has not completed his twelfth year shall be employed, or permitted to work, in any workshop wherein any of the processes set forth in the Schedule is carried on;

Provided that nothing in this sub-section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family only and without employing hired labour or to any school established by, or receiving assistance or recognition from a Provincial Government.]

<sup>2</sup>3A. The Provincial Government, after giving, by notification in the official Gazette, not less than three months' notice of its intention so to do, may, by like notification, add any description of process to the Schedule, and thereupon the Schedule shall have force in the Province as if it has been enacted accordingly.

Power to amend the Schedule.

3B Before work in any of the process set forth in the Schedule is carried on in any workshop after the 1st day of October, 1939, the occupier shall send to the inspector, within whose local limits the workshop is situated, a written notice containing—

Notice to inspector before carrying on work in certain processes.

(a) the name and situation of the workshop,

(b) the name of the person in actual management of the workshop.

<sup>1</sup> Ins. by s. 2 of the Employment of Children (Amendment) Act, 1939 (15 of 1939) (with effect from 1st October, 1939)

<sup>2</sup> Ins. by s. 3 of the Employment of Children (Amendment) Act, 1939 (15 of 1939) (with effect from 1st October 1939.)

<sup>3</sup> Ss. 3A, 3B and 3C ins.: *ibid.* (with effect from 1st October, 1939).

(c) ~~the~~ address to which communications relating to the workshop should be sent, and

(d) the nature of the processes to be carried on in the workshop.

**Disputes as to age.**

3C. If any question arises between an inspector and an employer as to whether any child has or has not completed his twelfth or fifteenth year, as the case may be, the question shall, in the absence of a certificate as to the age of such child, granted by a prescribed medical authority, be referred by the inspector for decision to the prescribed medical authority.]

**Penalty.**

4. Whoever employs any child or permits any child to work in contravention of the provisions of section 3 <sup>1</sup>[or fails to give notice as required by section 3B] shall be punishable with fine which may extend to five hundred rupees.

**Procedure relating to offences.**

5. (1) No prosecution under this Act shall be instituted except by or with the previous sanction of an inspector appointed under section 6.

<sup>2</sup>[(2) Every certificate as to the age of a child which has been granted by a prescribed medical authority shall, for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.]

(3) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

**Appointment of Inspectors.**

6. The competent authority may appoint persons to be inspectors for the purpose of securing compliance with the provisions of this Act, and any inspector so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of  
1880.

**Power to make rules.**

7. (1) The competent authority may by notification in the official Gazette and subject to the condition of previous publication make rules for carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) regulate the procedure of inspectors appointed under section 6, and

(b) make provision for the grant of certificates of age in respect of young persons in employment or seeking employment, <sup>3</sup>[the medical authorities] which may issue such certificates, the form of such certificate, the charges which may be made therefor, and the manner in which such certificates may be issued.

Provided that no charge shall be made for the issue of any such certificate if the application is accompanied by evidence of age deemed satisfactory by the authority concerned.

<sup>1</sup> Ins. by s. 5 of the Employment of Children (Amendment) Act, 1939 (15 of 1939) (with effect from 1st October, 1939).

<sup>2</sup> Subs. for the original sub-section by s. 6 *ibid* (with effect from 1st October, 1939).

<sup>3</sup> Subs. for "the authorities" by s. 7, *ibid*, (with effect from 1st October, 1939).

8. [Amendment of section 6, Act XV of 1908].—Rep. by s. 2 and Sch. I of the Repealing and Amending Act, 1942 (25 of 1942).

[THE SCHEDULE.

(See SECTIONS 3, 3A AND 3B.)

*List of Processes.*

1. Bidu-making
2. Carpet-weaving.
3. Cement manufacture, including bagging of cement
4. Cloth-printing dyeing and weaving
5. Manufacture of matches, explosives and fire works.
6. Mica-cutting and splitting.
7. Shellac manufacture
8. Soap manufacture.
9. Tanning
10. Wool cleaning.]

<sup>1</sup> Ins. by s. 8 of the Employment of Children (Amendment) Act 1939 (15 of 1939) (with effect from 1st October, 1939)





# INDEX

	PAGES.
Agricultural Produce (Grading and Marking) Act, 1937 . . . . .	441
Aircraft—See Indian Aircraft Act, 1934 . . . . .	271
Air Force—See Indian Air Force Act, 1932 . . . . .	45
Arbitration (Protocol and Convention) Act, 1937 . . . . .	443
Arya Marriage Validation Act, 1937 . . . . .	453
Assam Criminal Law Amendment (Supplementary) Act, 1934 . . . . .	255
Bangalore Marriages Validating Act, 1936 . . . . .	433
Bank—See Reserve Bank of India Act, 1934 . . . . .	155
Bengal Criminal Law Amendment (Supplementary) Act, 1932 . . . . .	17
Bengal Suppression of Terrorist Outrages (Supplementary) Act, 1932 . . . . .	123
Berar—See Petroleum (Berar Extension) Act, 1937 . . . . .	454
Carriage by Air—See Indian Carriage by Air Act, 1934 . . . . .	206
Children (Pledging of Labour) Act, 1933 . . . . .	124
Children—See Employment of Children Act, 1938 . . . . .	612
Convention—See Geneva Convention Implementing Act, 1936 . . . . .	432
„ —See Arbitration (Protocol and Convention) Act, 1937 . . . . .	443
Criminal Law—See Assam Criminal Law Amendment (Supplementary) Act, 1934 . . . . .	255
„ —See Bengal Criminal Law Amendment (Supplementary) Act, 1932 . . . . .	17
„ —See Provincial Criminal Law Amendment Supplementing Act, 1933 . . . . .	128
Criminal Law Amendment Act, 1932 . . . . .	120
Criminal Law Amendment Act, 1938 . . . . .	610
Cutchi Memons Act, 1938 . . . . .	609
Decree and Orders Validating Act, 1936 . . . . .	431
Divorce—See Jubbulpore and Chhattishgarh Divisions (Divorce Proceedings Validation) Act, 1935 . . . . .	401
Divorce—See Parsi Marriage and Divorce Act, 1936 . . . . .	404
Dock Labourers—See Indian Dock Labourers Act, 1934 . . . . .	201
Durgah Khawaja Saheb Act, 1936 . . . . .	435
Emigrant Labour—See Tea Districts Emigrant Labour Act, 1932 . . . . .	102
Employers' Liability Act, 1938 . . . . .	611
Employment of Children Act, 1938 . . . . .	612
Estate—See Murshidabad Estate Administration Act, 1933 . . . . .	132
Factories Act, 1934 . . . . .	224
Federal Court Act, 1937 . . . . .	455
Finance—See Indian Finance Act, 1933 . . . . .	125
„ —See Indian Finance Act, 1934 . . . . .	193
„ —See Indian Finance Act, 1935 . . . . .	399
„ —See Indian Finance Act, 1936 . . . . .	401
„ —See Indian Finance Act, 1937 . . . . .	451
„ —See Indian Finance Act, 1938 . . . . .	486

	PAGES
Foreign Relations Act, 1932	42
Geneva Convention Implementing Act, 1936	432
Grading and Marking—See Agricultural Produce (Grading and Marking) Act, 1937	441
Haj—See Port Haj Committees Act, 1932	83
Hindu Women's Rights to Property Act, 1937	452
Indian Aircraft Act, 1934	271
Indian Air Force Act, 1932	45
Indian Carriage by Air Act, 1934	206
Indian Dock Labourers Act, 1934	201
Indian Finance Act 1933	125
Indian Finance Act 1934	193
Indian Finance Act 1935	399
Indian Finance Act 1936	401
Indian Finance Act 1937	451
Indian Finance Act 1938	586
Indian Medical Council Act, 1933	142
Indian Navy (Discipline) Act, 1934	364
Indian Partnership Act, 1932	18
Indian Press (Emergency Powers) Act, 1931	3
Indian States (Protection) Act, 1934	196
Indian Tariff Act, 1934	268
Indian Tea Control Act, 1938	587
Indian Wireless Telegraphy Act, 1933	130
Industry—See Sugar Industry (Protection) Act, 1932	43
Insurance Act, 1938	457
Jubbulpore and Chhattisgarh Divisions (Divorce Proceedings Validation) Act, 1935	401
Khaddar (Name Protection) Act, 1934	192
Labour—See Children (Pledging of Labour) Act, 1933	124
„ —See Indian Dock Labourers Act, 1934	201
„ —See Tea Districts Emigrant Labour Act, 1932	102
Manoeuvres, Field Firing and Artillery Practice Act, 1938	581
Marriage—See Arya Marriage Validation Act, 1937	453
„ —See Bangalore Marriages Validating Act, 1936	433
„ —See Parsi Marriage and Divorce Act, 1936	404
Medical Council—See Indian Medical Council Act, 1933	142
Murshidabad Estate Administration Act, 1933	132
Muslim Personal Law (Shariat) Application Act, 1937	456
Navy (Discipline)—See Indian Navy (Discipline) Act, 1934	364
Parsi Marriage and Divorce Act, 1936	404
Partnership—See Indian Partnership Act, 1932	18
Payment of Wages Act, 1936	420
Petroleum Act, 1934	257
Petroleum (Berar Extension) Act, 1937	454
Port Haj Committees Act, 1932	83

	PAGES.
Press—Indian Press (Emergency Powers) Act, 1931 . . . .	3
Property—See Hindu Women's Rights to Property Act, 1936 .	452
"    —See Red Cross Society (Allocation of Property) Act, 1936	434
Provincial Criminal Law, Supplementing Act, 1933 . . . .	128
Provisional Collection of Taxes Act, 1931 . . . . .	2
Public Suits Validation Act, 1932 . . . . .	41
Red Cross Society (Allocation of Property) Act, 1936 . . . .	434
Reserve Bank of India Act, 1934 . . . . .	155
Rules and Regulations Continuance Act, 1937 . . . . .	455
Shariat—See Muslim Personal Law (Shariat) Application Act 1937	456
Sheriff of Calcutta (Powers of Custody) Act, 1931 . . . .	2
States—See Indian States (Protection) Act, 1934 . . . .	196
Sugar-cane Act, 1934 . . . . .	199
Sugar Industry (Protection) Act, 1932 . . . . .	43
Tariff—See Indian Tariff Act, 1934 . . . . .	268
Taxes—Provisional Collection of Taxes Act, 1931 . . . .	1
Tea Control—See Indian Tea Control Act, 1938 . . . .	587
Tea Districts Emigrant Labour Act, 1932 . . . . .	102
Terrorist Outrages—See Bengal Suppression of Terrorist Outrages (Supplementary) Act, 1932 . . . . .	123
Wages—See Payment of Wages Act, 1936 . . . . .	420
Wireless Telegraphy—See Indian Wireless Telegraphy Act, 1933 .	130
Women's Rights—See Hindu Women's Rights to Property Act 1937	452



